

**New England Fishery Management Council**

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FRAMEWORK ADJUSTMENT 25

to the

NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

**To achieve plan objectives in 1998  
and implement other measures**

Prepared in consultation with National Marine Fisheries Service Mid-Atlantic Council

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# 1. INTRODUCTION

## 1.1 Executive Summary

The New England Fishery Management Council (Council) is taking action to implement measures under an ongoing rebuilding plan for northeast multispecies groundfish stocks. This action is the second iteration of the plan review and adjustment process established by Amendment 7 to the Northeast Multispecies Fishery Management Plan (FMP) to ensure that rebuilding plan goals are met on a continuing basis. The Multispecies Monitoring Committee (MSMC) has reported that the stock status has improved for Georges Bank cod, haddock and yellowtail flounder and Southern New England yellowtail flounder, but that the status of Gulf of Maine cod continues to deteriorate.

The primary purpose of this action, therefore, is to significantly reduce fishing effort on Gulf of Maine cod through a combination of direct and indirect measures. Direct measures include area closures and trip limits, and indirect measures include an incentive to shift effort from the Gulf of Maine to Georges Bank with an increased haddock trip limit. The Council proposes the adjustments summarized below and described in detail in Section 3.1:

- **Gulf of Maine cod trip limit:** a reduction in the daily trip limit for cod for vessels not enrolled in the Gulf of Maine Cod Trip Limit Exemption Program to 700 pounds per day with authority for the NMFS Regional Administrator to reduce that limit to between 400 pounds per day and 700 pounds when 50 percent of the annual target total allowable catch (TAC) has been caught.
- **One-month rolling closures:** sequential one-month closed areas beginning in March in Massachusetts Bay, in April in waters off Cape Ann, Massachusetts, in May in waters off the coast of southwestern Maine, and in June in waters off the south-central Maine coast as well as an offshore area comprising Cashes Ledge.
- **Western Gulf of Maine Closure Area:** a year-round closure of an area enclosed by the following: 42°15' North, 43°15' North, 69°55' West, and 70°15' West, which includes all or part of Jeffrey's Ledge, Wildcat Knoll and Stellwagen Bank.
- **Haddock trip limit increase:** an increase in the haddock trip limit based on a threefold increase in the haddock TAC
- **VMS implementation postponement:** a one-year postponement in the mandatory use of electronic Vessel Monitoring Systems (VMS) on Individual Days-at-Sea vessels
- **Raised-footrope trawl requirement:** a requirement for vessels fishing with small mesh in Small Mesh Area 1 and Small Mesh Area 2 to use a raised-footrope trawl net to reduce bycatch.

The Council feels that these measures will end overfishing and rebuild GOM cod, and provide the greatest opportunity for vessels to fish and seek alternative fisheries within the conservation requirements of the plan. The Council will continue to monitor the rebuilding plan to insure that its goals are met each year. Additionally, the Council has started a new amendment to bring the Multispecies FMP into compliance with the new and revised national standards in the Sustainable Fisheries Act. The FMP

amendment will contain new definitions of overfishing and measures to stop overfishing and rebuild overfished stocks. The amendment will be submitted by September 30, 1998.

## **1.2 Background**

### **1.2.1 Previous actions**

#### **Amendment 7**

Amendment 7 established a rebuilding program for Georges Bank (GB) and Gulf of Maine (GOM) cod, GB haddock, and GB and Southern New England (SNE) yellowtail flounder stocks based primarily on days-at-sea (DAS) controls, area closures and minimum mesh size. As early as 1995, during the development of the amendment, the Council recognized issues that would have to be addressed after implementation and as the plan evolved. Foremost of these, as noted in the Final Supplemental Environmental Impact Statement (FSEIS) was the potential for effort shifts between areas or fisheries in response to restrictive DAS allocations and closures of prime fishing grounds on Georges Bank. A second issue recognized by the Council was the relative lack of control of fishing effort of some fleet sectors, particularly gillnet vessels and day boats, which had either been exempt from restrictions, or were not effectively managed under Amendment 5.

#### **Framework 20**

During the first annual plan review under Amendment 7, in the Fall of 1996, the Council learned that fishing mortality rates on four of the five principal stocks (except GOM cod) had declined but that effort on GOM cod remained well above the maximum acceptable level set by the plan. That review resulted in Framework 20, which established a gillnet gear/effort control program, a GOM cod trip limit, and incentives to shift effort to other fisheries in the form of an increased haddock trip limit, and established several exempted fisheries (non-DAS fisheries with very low groundfish bycatch levels).

#### **Framework 24**

Following implementation of Framework 20, the Council learned that the GOM cod trip limit system was not working as effectively as intended. Reportedly, vessels were landing cod in excess of the per-day limit and keeping their DAS clock running, as required, but were then returning to fish for species other than cod (and perhaps discarding cod). While this practice was within the rules, the Council felt it was contrary to the intent of the trip limit as an effort control mechanism.

In response, the Council submitted Framework 24 which requires vessels that exceed their per-day limit of GOM cod to remain in port until sufficient DAS time has elapsed to account for the landings. This system allows vessels to land cod caught in excess of the trip limit (thus avoiding discards) but retains the effectiveness of the effort control system. Framework 24, when implemented, will also move the boundary line of the Gulf of Maine Cod Trip Limit Exemption Program from 42°00'N to 42°20'N east of 69°30'W.

Framework 24 also contained exemptions to the regulations so vessels could fish in the areas managed under Northwest Atlantic Fishery Organization (NAFO) and a provision to allow vessels to carryover up to 10 unused DAS to the following fishing year. The Council submitted Framework 24 on September 5, 1997. It is still under NMFS review.

### **1.2.2 Multispecies Monitoring Committee Report**

The Council established the MSMC to annually review the rebuilding plan, identify options as needed to achieve plan goals, and to set annual target total allowable catch levels (TACs) for the five focus stocks of cod, haddock and yellowtail flounder. So that sufficient time is available for the Council to develop and submit plan adjustments and for NMFS to review and implement regulations by the May 1 start of the fishing year, the MSMC must begin its review in early Fall. The MSMC met on the following dates in 1997:

- August 27
- October 28-29
- November 12-13.

As a result of this timetable, the MSMC must project the impacts of measures in effect for the current fishing year based on data from the first four or five months of the fishing year so that it can estimate the status of the stocks at the end of the year, calculate TACs and develop options to meet plan goals in the following fishing year. The MSMC completed its report on December 2 and formally presented it to the Council and public on December 9. The report is included in this document as Appendix II.

In summary, the MSMC noted the following:

*Stock status has improved for the three Georges Bank stocks and Southern New England yellowtail. Calendar year 1997 fishing mortality rates are below the overfishing definitions for these stocks, and below the more restrictive Amendment 7 targets for all but Georges Bank cod. Spawning stock biomass has increased for these stocks but, with the exception of Georges Bank yellowtail, remains below the Amendment 7 biomass goals. In general, recruitment (incoming year classes) is below the long-term average with the exception of Georges Bank yellowtail.*

*The status of Gulf of Maine cod has continued to deteriorate. The fishing mortality rate declined to 0.78 in 1997, but remains well above both the overfishing definition ( $F_{20\%}=0.37$ ) and the Amendment 7 mortality target ( $F_{max}=0.29$ ). Recruitment is at record low levels and spawning stock biomass is projected to decline in 1997 to the lowest level ever observed.*

*The MSMC also examined the status of the other large mesh regulated species...through calendar year 1996 using research trawl survey indices, commercial landings and a relative exploitation index. In general, stock biomass has not significantly changed in recent years: the biomass is low for four stocks (witch flounder, Georges Bank winter*

*flounder, Southern New England winter flounder and Southern New England windowpane flounder) and low-to-medium for the remainder. Relative exploitation has declined for all species, except white hake and witch flounder which remain at a high level.*

*Target total allowable catches (TACs) were calculated for fishing year 1998 based on projected stock sizes. The TACs assume that the 1997 Canadian quota for the three Georges Bank stocks will be carried over in 1998. The TACs are found in the following table.*

*In metric tons:*

<b>STOCK</b>	<b>1997 TAC</b>	<b>Projected 1997 TAC</b>	<b>1998 TAC</b>
Georges Bank cod	3646	7350	4700
Georges Bank haddock	1608	825	4797
Georges Bank yellowtail	776	843	2145
SNE yellowtail	824	327	814
Gulf of Maine cod	2605	4812	1783

## **2. PURPOSE AND NEED**

### **2.1 Need for the adjustment**

The purpose of the proposed action is to meet the plan objectives established by Amendment 7. Last year's MSMC report provided the earliest indication that GOM cod needed further protection in order to meet those goals, and the 24<sup>th</sup> Stock Assessment Workshop (SAW 24) confirmed the MSMC findings at its July, 1997 plenary session. As noted in the preceding section (1.2.2) and in the December, 1997 MSMC report (Appendix II), the projected impacts of measures currently in effect or to be implemented under Framework 24 fall short of the necessary reductions to meet plan objectives for GOM cod. The fishing mortality rate on GOM cod must be reduced by 48 percent from the 1997 levels to achieve the goal set by Amendment 7. The TAC for 1998 of 1,783 mt, represents a 63 percent drop from projected fishing year 1997 landings.

### **2.2 Publication as a final rule**

The Council recommends that NMFS publish the proposed adjustments as a final rule, and it has considered the following factors as specified in 50 CFR 648.90 (b) in making this recommendation:

1. timing of the rule
2. opportunity for public comment
3. need for immediate resource protection, and
4. the continuing evaluation of the plan.



### **2.2.1 Timing of the rule**

The timing of the rule is relevant to the start date of the fishing year, May 1, and to the urgent need to implement measures to reduce fishing mortality on GOM cod at the earliest possible time. Based on the amount of time NMFS requires to review the framework document to determine that the proposed action meets the FMP objective and is consistent with other applicable law, publication as a proposed rule would likely delay effectiveness of the measures beyond the start of the fishing year. The Council is concerned that any delay in the effectiveness of measures to reduce fishing mortality of GOM cod would result in continued stock decline.

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

### **2.2.2 Opportunity for public comment**

The Framework 25 development process formally started with the December 9, 1997 Council meeting. At that initial meeting the MSMC gave its report on the status of the rebuilding plan, and the Council identified the basic options it would include in the document for analysis and public comment. Over course of the preceding year, however, the Council, Groundfish Committee and Area Closure Subcommittee frequently discussed, in public meetings, the status of GOM cod and the potential for additional restrictions to meet plan objectives.

The Council focused both Framework 20 (the 1997 fishing year plan adjustment, submitted on February 1) and Framework 24 (adjusting the cod trip limit measures, submitted on September 5) on meeting effort reduction requirements for GOM cod. The Stock Assessment Workshop (SAW 24) held a plenary session at the July Council meeting, updating the public on the status of cod, haddock and yellowtail flounder stocks, in which it advised that fishing mortality on GOM cod should be reduced to levels approaching zero to prevent continued decline. The Gulf of Maine Area Closure Subcommittee began development of the rolling closure concept in a public meeting in April, 1997 and held two additional meetings in July and December.

The schedule of meetings for which the public notice included discussion of specific alternatives for this framework is as follows:

<b>DATE</b>	<b>MEETING</b>	<b>AGENDA/DISCUSSION</b>
12/5/97	Area Closure Subcommittee/ PDT joint mtg.	<ul style="list-style-type: none"> <li>• Develop area closure alternative based on MSMC report (released 12/3/97)</li> </ul>
12/9-11/97	Council	<ul style="list-style-type: none"> <li>• MSMC Report</li> <li>• Area Closure Subcommittee Report</li> <li>• Initial meeting for FW 25</li> </ul>
12/15/97	GF Committee	<ul style="list-style-type: none"> <li>• Finalize FW 25 options</li> </ul>
1/7/98	GF Advisory Panel	<ul style="list-style-type: none"> <li>• Review Framework 25 options</li> </ul>
1/14-15/98	Council	<ul style="list-style-type: none"> <li>• Framework 25 final meeting</li> </ul>

The mailing lists for meeting notices contain approximately 900 and 1,600 interested parties for Groundfish Committee and Council meetings, respectively. Notices are mailed at least two weeks in advance of committee meetings and three weeks in advance of Council meetings. Council meeting notices are also published in the *Federal Register* three weeks ahead of the meeting. Agendas and meeting summaries for the above meetings are available from the Council office.

### **2.2.3 Need for immediate resource protection**

The MSMC report (Appendix II) summarizes the most recent scientific information available on GOM cod and the impacts of the management regulations currently in place. As noted in Section 2.1 of this document, the Council must achieve a reduction of 48 percent in the fishing mortality rate just to achieve the goal set by Amendment 7. The advice of SAW 24 included the following statement:

*An immediate reduction in fishing mortality to levels approaching zero is required to halt the declining trend in spawning stock biomass and to rebuild at the maximum rate possible. Measures should be enacted immediately to minimize all directed fishing and bycatch on this stock.*

While the Council took initial steps in Frameworks 20 and 24 to reduce the effort on GOM cod, the stock is still being fished at unacceptably high levels and any delay in implementation of measures contained in this framework poses increased risk to the long-term viability of the stock and the fisheries dependent on it.

### **2.2.4 Continuing evaluation**

The regulations require the Council to review the plan annually and make adjustments as necessary to insure that the rebuilding goals are being met (50 CFR 648.90 (a)). The Council is proposing this framework adjustment in accordance with that requirement. Both the Council and NMFS continually monitor catch, effort and resource information and may address problems as needed any time during the year using the framework adjustment procedure, such as they have done with Framework 24.

Furthermore, the Council has started to review and amend the FMP so it is in full compliance with the new and revised national standards established by the Sustainable Fisheries Act.

### **3. PROPOSED ACTION AND ALTERNATIVES**

The Council is considering the measures in Section 3.1 for submission in this framework. Section 3.2 contains a description of measures considered and rejected by the Council, including the no-action alternative, and a discussion of the reasons for the rejection.

#### **3.1 Proposed action**

##### **3.1.1 Combined area closures and trip limits to reduce the effort on Gulf of Maine cod**

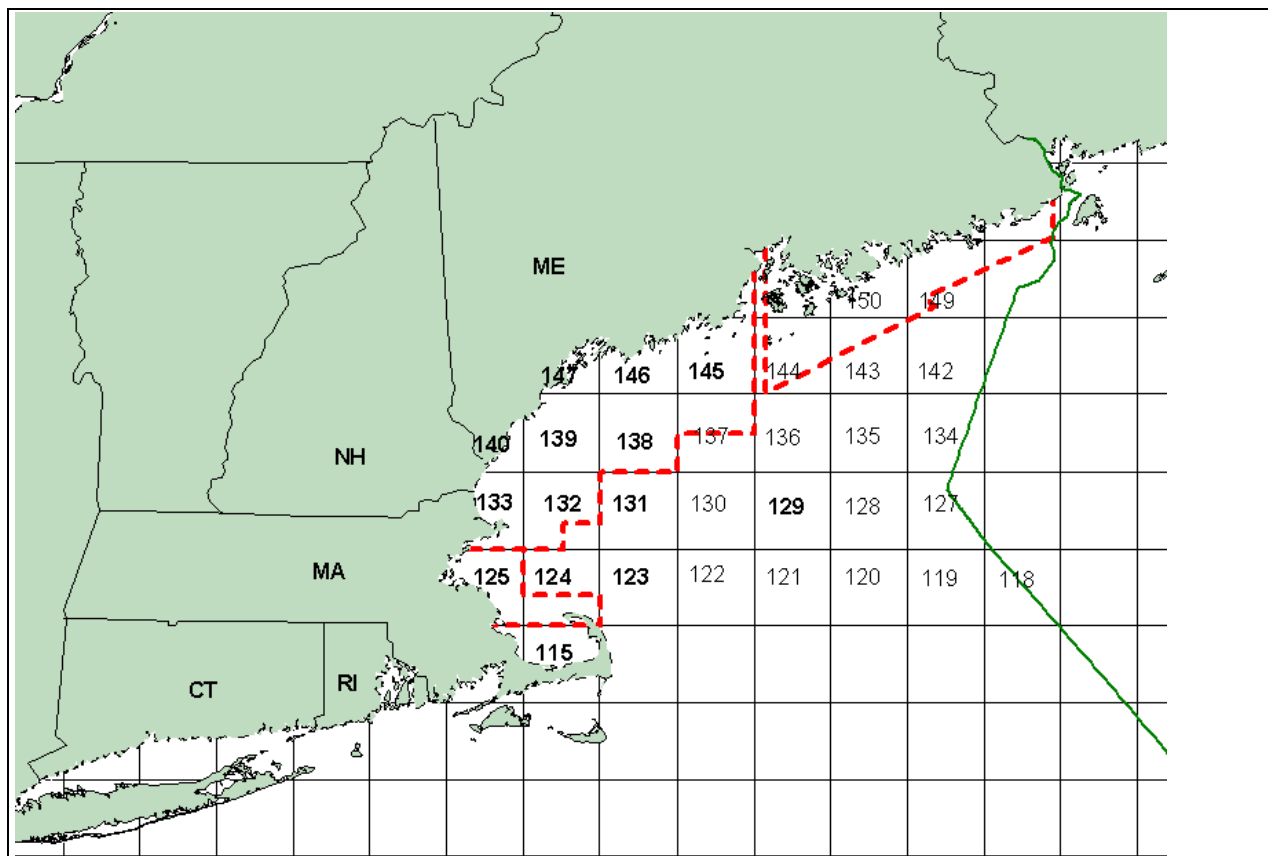
The Council proposes to meet the rebuilding goals for Gulf of Maine cod through a combination of a reduced cod trip limit and area closures targeting the areas of highest cod landings. As a safeguard against exceeding the target TAC, the Council also proposes to authorize the Regional Administrator to reduce the trip limit by issuing a notice when one half of the TAC is reached. Proposed area closures include both one-month closures of areas of highest cod landings patterns and a year-round closure of an area approximately 840 square nautical miles (approximately 1,111 square miles) as shown in Figure 3.1-2. The components of the action are described below:

- One-month rolling closure of areas described in Table 3.1-1 below (GM1- March, GM2-April, GM3- May and GM4- June, block numbers reference Figure 3.1-1)
- One month closure, June, of block 129
- 12-month closure of an area bounded by 42°15' and 43°15' North Latitude, and 69°55' and 70°15' West Longitude (see Figure 3.1-2), the Western Gulf of Maine Closure Area
- Cod trip limit of 700 pounds/day for vessels not in the Gulf of Maine Cod Trip Limit Exemption Program until 50 percent of the target TAC is reached, at which time the Regional Administrator may reduce to trip limit to between 400 and 700 pounds per day by publication of a notice
- Vessels fishing with lobster pots in the closed areas would be prohibited from possessing regulated species
- The measure will automatically expire after three years unless re-authorized by Council action

This proposal will replace current groundfish closures in the Mass Bay Area (March) and Mid-Coast Area (May) but will retain the current Northeast Closure Area, August 15-September 13.

BLOCK		MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPT.
GM1	124,125	■	■	■				
GM2	131,132,133		■	■	■			
GM3	138,139,140			■	■	■		
GM4	145,146,147,152				■	■	■	
GM5	129				■	■	■	
NORTHEAST CLOSURE							→ 8/15	← 9/13

**Table 3.1-1 Proposed rolling closures for the Gulf of Maine**



**Figure 3.1-1 Gulf of Maine area closure reference blocks**

**(Current groundfish/harbor porpoise closure areas indicated by dashed lines)**

**Figure 3.1-2 Western Gulf of Maine Closure Area (year round closure)**

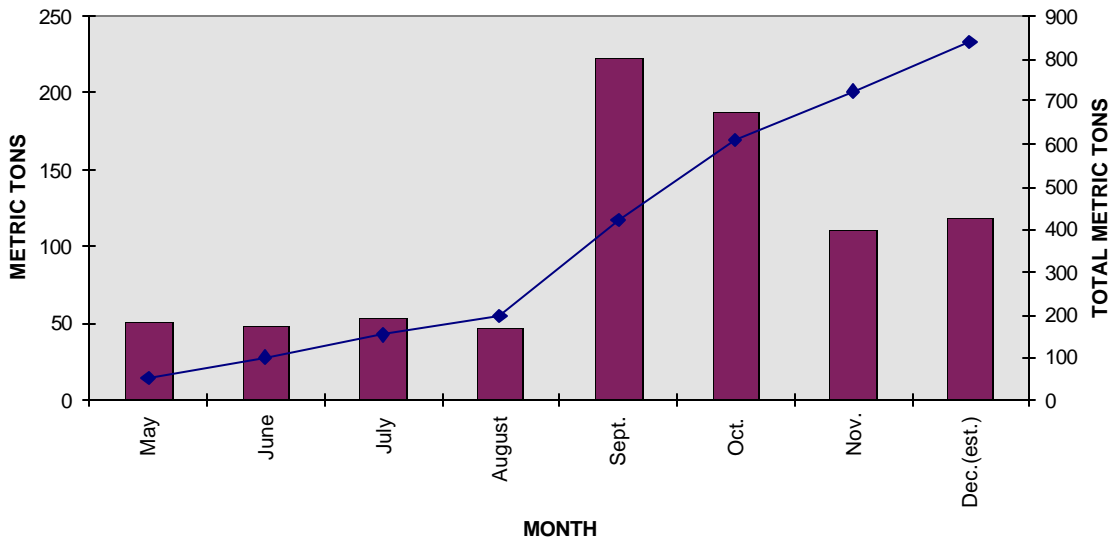
### 3.1.2 Haddock trip limit adjustment

The Council proposes a haddock trip limit for 1998 as follows:

- 1,000-pound-per-day/10,000-pound-maximum trip limit starting May 1
- 3,000-pound-per-day/30,000-pound-maximum trip limit starting September 1
- when the 75 percent of the target TAC is reached (at approximately 3,598 metric tons, or 7.9 million pounds), the Regional Administrator could decide to reduce the trip limit to either 1,000 pounds (total possession) or 1,000-pounds-per-day/10,000-pounds-maximum based on a determination of the risk of exceeding the TAC.

**Rationale:** The Council does not expect that vessels will land the full amount of 1997 TAC, 1,608 metric tons, based on current trend in landings. Nor does it expect, without adjustment to the trip limit, that vessels will be able to land the greatly increased 1998 TAC of 4,797 metric tons. For 1997, the haddock trip limit was 1,000 pounds until September 1 when it increased to 1,000-pounds-per-day/10,000-pounds-maximum. The trip limit is scheduled to remain at that level until 1,150 metric tons are landed, at which time it will revert to the 1,000-pound limit. Through December 27, 1997, NMFS has recorded 840.85 metric tons of haddock landed, which represents approximately 73 percent of the 1,150 trigger, and 53 percent of the 1997 fishing year TAC.

1997 Monthly Haddock Landings



While the GB haddock stock biomass (40,383 metric tons) is still only about one-half of the minimum threshold which is the goal of the rebuilding plan, (80,000 metric tons), the Council feels that allowing vessels to catch more haddock is consistent with the multispecies approach to management. The increase in haddock catch will still allow for rebuilding of that stock, but may also draw effort out of the Gulf of Maine, where the cod stock is still severely overfished.

### 3.1.3 Require the use of the raised footrope trawl in Small Mesh Areas 1 and 2

The Council proposes to require that vessels fishing in the Small Mesh Area 1 and Small Mesh Area 2 Exempted Fisheries in the Gulf of Maine use a raised-footrope trawl as described below.

- There shall be one 8” float for every four feet of headrope. (Placement of the floats is not regulated.)
- Ground Gear Construction:
  - a) Top leg -no larger 1/2” bare wire
  - b) Bottom leg -no larger than 5/8” bare wire
  - c) Ground cables -no larger than 3/4” bare wireDetails: Top and bottom legs must be equal length. The total length of ground cables and legs must not be greater than 40 fathoms from the doors. All ground gear must be bare wire.
- Footrope: The footrope must be longer than the headrope but no more than 20’ longer than the length of the headrope.
- Chain Sweep:
  - a) All sweep chain must be 5/16”. The total length of the sweep must be at least 7 feet longer than the total length of the footrope (3’6” each side). Drop chains must connect the footrope to the sweep chain. The length of each of the drop chains must be *at least* 42 inches (3’6”).
  - b) One drop chain must be hung in the center of the footrope to the center for the sweep. One drop chain should be hung from each corner (the junction of the bottom wing to the belly at the footrope). The distance between the center drop chain and all other drop chains must be the same length on both the footrope and sweep. Drop chains must be hung at 8 foot intervals from the corners towards the wing ends. The distance of the drop chain, that is nearest the wing end, to the end of the footrope may differ from net to net, provided the sweep is at least 3’6” longer than the footrope between the drop chain closest to the wing ends and the end of the sweep that attaches to the wing end (see Figure 3.1-3.)



### **Figure 3.1-3 Diagram of raised footrope trawl**

**Rationale:** The Council is proposing this action based on the preliminary results of an experimental fishery conducted by Massachusetts at the end of 1997. While the analysis of experimental results is not yet complete, fishermen have reported favorably on the gear, consistent with the results of a smaller experimental fishery in 1996. Not only does the gear significantly reduce the bycatch of flounders and other species, such as monkfish and lobsters, it reduces sorting time on deck and improves product quality for the target species, whiting.

The Massachusetts Division of Marine Fisheries has submitted comments and advice about the management of fisheries in Small Mesh Areas 1 and 2 with the raised footrope trawl which are included as Appendix V.

#### **3.1.4 One-year delayed implementation of mandatory VMS**

Beginning May 1, 1998, Individual DAS vessels, that under current regulations could be required to use the electronic Vessel Monitoring System (VMS) (since NMFS is prepared to make the system operational), would be able to choose to not install or use the VMS for one year. This option will only be effective for the 1998 fishing year, and the Council would have to make any future modifications to the current requirements by framework adjustment.

**Rationale:** Under Amendment 5, the Council required any vessel in the Individual DAS category to install a VMS, but implementation of the system was delayed until it could be fully designed and tested. NMFS recently completed its field experimentation of the VMS and has indicated to the Council that it is ready to make the system operational. Upon receiving NMFS' report on the experiment results, the Council sent a letter urging NMFS to activate the rules for the upcoming fishing year.

A number of fishermen who would be affected by proposed action to reduce catches of GOM cod commented to the Council that the added cost of installing and operating the VMS at this time would pose an added financial burden at a time when their revenues were expected to decline. The Council considered the issues raised by these fishermen and initially agreed that, since the call-in system seems to be working as a mechanism for monitoring DAS, it would postpone this requirement for vessels fishing in the Gulf of Maine for one year. Following discussion of the administrative complications resulting from exempting only vessels fishing in the Gulf of Maine, the Council extended the delayed implementation to all Individual DAS vessels.

The Council will use the opportunity to discuss several other VMS issues that have arisen since it originally developed the concept in Amendment 5. These issues include reconsideration of the basis for requiring VMS only on Individual DAS vessel, and the use of VMS to monitor or provide controlled access to closed areas. The Council will consider proposals for modifications to VMS regulations in the upcoming SFA compliance amendments.

## **3.2 Alternatives considered and rejected**

### **3.2.1 No action**

The Council rejected the no-action alternative because it would not achieve the plan objectives for Gulf of Maine cod. Other than the increase in the haddock trip limit, however, the measures contained in this framework focus on fishing in the Gulf of Maine and, therefore, effectively take no action on fisheries outside of that region.

### **3.2.2 Modifications to DAS**

The MSMC included four options (1, 2, 4 and 5 in the MSMC Report, Appendix II) that would reduce DAS. The Council rejected Options 1, 4 and 5 primarily because they would have reduced DAS for all vessels, including those that do not fish in the Gulf of Maine. Option 2 would have reduced DAS only on those vessels that fished in the Gulf of Maine (by counting those DAS at a rate of three-to-one). The Council rejected it because, like the other DAS options, it would affect vessels fishing for species other than Gulf of Maine cod, such as flounders, pollock, white hake or other regulated species.

### **3.2.3 Area closures**

#### **3.2.3.1 Alternative area closure proposals**

Beginning with the development of Framework 20, the annual adjustment for the 1997 fishing year, the Council has been working on alternative area closures for the Gulf of Maine. Initially, the Council sought to develop measures to replace the GOM cod trip limit out of concern for its efficacy and potential discarding problem. The Groundfish Committee established an area closure subcommittee that met three times to develop an alternative, but the subcommittee's work was overshadowed by other committee and Council activities. Furthermore, monitoring and review of the trip limit indicated that discarding was

not a significant problem, and that vessels appeared to be modifying their behavior to redirect effort away from GOM cod.

In the meantime, the SAW 24 report alerted the Council to the condition of the GOM cod stock. Based on that information and the MSMC report, the Council concluded that an area closure designed to replace the trip limit would be so large, or of such long duration, that the impacts on other fisheries would be unacceptable and too costly. The Council rejected such area closures last year, in developing Framework 20, and did not reconsider any closure-only proposals for this framework.

The Council considered a variety of closures to be combined with a trip limit, including Options 6, 7 and 8 in the MSMC Report (Appendix II). The options contained in this framework are based on the rolling-closure concept developed by the Area Closure Subcommittee, combined with a trip limit and modified to achieve the plan's fishing mortality goals. The Council did not adopt these options for various reasons, including public comments about potential economic or allocation impacts.

### **3.2.3.2 Exemptions to area closures**

The Council considered proposals to exempt flounder gillnetting from the area closures. The rationale for the proposal, was that the gear is highly species selective (does not catch cod) and the exemption would enable gillnet boats to continue their spring flounder fishery without impacting Gulf of Maine cod. The Council directed the Groundfish Committee to develop the specifications of the alternative, including a reduction in the number of nets allowed. The committee rejected the exemption because it would have greatly hampered enforcement of the closures and because it could not fairly justify allowing selective gillnetting without allowing other gears, such as trawls, that can be fished in a manner that is also species selective.

### **3.2.3.3 Prohibit recreational fishing in the closed areas**

The Council discussed, but did not formally consider prohibiting recreational fishing in the proposed closed areas. The Council has not yet formally evaluated the impact of Amendment 7 measures on the recreational sector, and based on public comments, feels that no additional restrictions are warranted at this time. The Council noted in its discussion, however, that party and charter vessels that possess multispecies permits and fishing under DAS are not considered recreational vessels and are prohibited from fishing in the closed areas.

### **3.2.3.4 Draft framework Option 1**

The Council included the following as one of three options for consideration at the final framework meeting. The Industry Advisory Panel supported a modified version of this option after discussions at its meeting on January 7, 1998, although a minority view opposed two-month closures of inshore grounds. The Council rejected it primarily because of the level of negative public comment about the impact of two-month closures on inshore, small-boat fleets and associated shoreside infrastructure.

- Two-month rolling closure as described in the following table plus the current Northeast Closure Area, August 15-September 13.

- Cod trip limit between 400 pounds/day and 1,000 pounds/day as needed (based on analysis to meet plan objectives) for vessels not in the Gulf of Maine Cod Trip Limit Exemption Program (south of 42°20')
- Block 129 closed only if analysis indicates trip limit needs to be below 500 pounds/day

		MARCH	APRIL	MAY	JUNE	JULY
<b>GM1</b>	115,124,125	■	■	■		
<b>GM2</b>	131,132,133		■	■	■	
<b>GM3</b>	138, 139, 140			■	■	■
<b>GM4</b>	145, 146, 147, 152				■	■

This proposal would have replaced current groundfish closures in the Mass Bay Area (March) and Mid-Coast Area (May) but will retain the current Northeast Closure Area, August 15-September 13.

### 3.2.3.5 Draft framework Option 3

The Council considered this option at the final framework meeting but rejected it primarily because analysis did not show that it could achieve the plan objectives as drafted, even when no effort displacement is assumed. However, Option 3 is similar in many respects to a proposal put forward at the final framework meeting by the Gulf of Maine Fishermen’s Alliance (GFMA) which the Council is considering for follow-on action pending analysis and further development by the Groundfish Committee and Industry Advisory Panel.

- One month rolling closures as described in Option 2 (the proposed action)
- Closures of block 130 in May, 129 in June, and 137 for the highest month of cod landings (May, June or July) based on analysis 1993-1996 data
- Cod trip limit of 1,000 pounds/day for vessels not in the Gulf of Maine Cod Trip Limit Exemption Program (south of 42°20'), except in an area bounded by 42°00' and 43°00' between 69°50' and the shore where the trip limit would be 700-pounds/day (see Figure 3.2-1)

This proposal will replace current groundfish closures in the Mass Bay Area (March) and Mid-Coast Area (May) but will retain the current Northeast Closure Area, August 15-September 13.

### **Figure 3.2-1 Option 3**

#### **3.2.4 Increase the minimum mesh size**

The Council considered a proposal to increase the minimum mesh size for the purpose of cod management in the Gulf of Maine, and directed the Groundfish Committee to include such a measure in the framework document, if possible. The Groundfish committee agreed to discuss this option at a later date, effectively rejecting it as an option for this framework. Among the issues are: cost to vessels, availability of larger mesh, enforcement concerns, and the impact on fishing mortality rates (since a mesh-size increase changes the exploitation pattern but not the fishing mortality rate of fully recruited age classes).

#### **3.2.5 Provide incentives for vessels to fish offshore through DAS adjustments**

The Council and Groundfish Committee considered proposals to establish a mechanism that would credit DAS to vessels fishing offshore. The rationale for the concept is primarily that the current system forces vessels to fish inshore (impacting Gulf of Maine cod and concentrating effort on inshore fisheries) because vessels seek to maximize their fishing time, or cause vessels to relocate to ports closer to Georges Bank to reduce steaming time. Proponents argue that since the vessels will adjust their behavior to maximize fishing time per DAS, the concept is conservation-neutral. They also predict that the current system will impact the communities and infrastructure in the more-distant ports, such as Portland, ME, because vessels may relocate to reduce steaming time.

Over the past year, the Council has considered, but not acted on this proposal. In the context of this framework, the Groundfish Committee considered the proposal but agreed to discuss it as part of the amendment to address Sustainable Fisheries Act requirements. The Regional Administrator has also gone on record opposing any increase in DAS allocations at this time. The most commonly cited reason for the Council's opposing the concept is that the DAS system is based on an assumed relationship between historical days absent from port, not days fished, and fishing effort. Adjusting the allocations (by not counting steaming time) would weaken that relationship and require a reconsideration of the overall effort allocation/reduction system.

### **3.2.6 Optional VMS for one year in the Gulf of Maine**

The Council considered a measure that would allow, beginning May 1, 1998, Individual DAS vessels fishing in the Gulf of Maine (north of the trip limit exemption line) to elect not to use the electronic Vessel Monitoring System (VMS). This exemption would not have applied to vessels required under current regulations to use a VMS (pending NMFS start-up of operations) and fishing south of the cod trip limit exemption line (on Georges Bank and in Southern New England). The Council rejected this proposal because of numerous questions raised about the fairness, administrative complications, and implications for vessels that fish in both areas. Instead, the Council chose to delay mandatory use of the VMS for one year for all multispecies Individual DAS vessels.

## **4. ANALYSIS OF IMPACTS**

### **4.1 Biological impacts**

#### **4.1.1 Impacts on cod, haddock and yellowtail flounder**

The proposed action will directly affect haddock and GOM cod. The Council is not proposing any changes to DAS, area closures or other measures that will directly affect GB and SNE yellowtail flounder stocks or GB cod. Some indirect effects of proposed restrictions on vessels fishing in the Gulf of Maine, however, may occur from resulting effort shifts but the magnitude and direction of the shifts cannot be predicted. For example, fishermen may choose to fish in other fisheries rather than shift effort to cod, haddock or yellowtail flounder on Georges Bank or in Southern New England. The Council does not feel that the impacts of the proposed action will significantly affect the rebuilding of those other stocks.

Catches of haddock will increase from current year levels under the proposed increased trip limit but will likely remain below the 4,797 metric ton target TAC for 1998 as a result of the backstop effect of the notice action provision that gives the Regional Administrator the authority to reduce the haddock possession limit when 75 percent of the 1998 TAC is reached (at approximately 3,598 metric tons or 7.9 million pounds). Indirectly, the haddock trip limit adjustments may contribute to the needed effort reduction on Gulf of Maine cod by providing a significant incentive for vessels, especially larger vessels, to redirect their effort onto offshore haddock stocks and away from inshore areas where GOM cod is concentrated.

The proposed action will directly impact GOM cod. The Council has developed the proposed measures specifically to reduce fishing effort on that stock from the projected 1997 level of  $F=0.78$  (MSMC Report, p.49) to  $F=0.29$ , the plan's management objective. Quantitative analysis of the reduction in landings expected from the proposed action is shown in Appendix III as Option 2A, with a modification that the closure of block 129 is for the month of June only, not year-round.

Appendix III shows three approaches to area closure analysis that differ in the way they treat effort displaced from the closures. Of these analyses, the only model where the results meet the plan objectives is the one that assumes effort displaced by the closure is eliminated (no-displacement model). With all of the assumptions noted in the descriptions of the model, the target TAC could be met with a trip limit between 700 and 800 pounds per day if block 129 were closed year-round (Option 2a), or with a trip limit between 400 and 500 pounds per day if block 129 were not closed (Option 2).

Because the data used by the model cannot be partitioned more precisely than 30-minute squares, the analysis assumes that the proposed year-round closure shown in Figure 3.1-2 would result in a reduction in cod landings of 1,000 metric tons. Since the closure includes some of the most productive grounds, Jeffreys Ledge and eastern part of Stellwagen Bank along the 50-fathom curve, the Council feels that the impact of this closure may be underestimated. Blocks 124, 132 and 139 which contain most of the proposed year-round closure area accounted for GOM cod landings of 2,747 metric tons.

The results of the analytical model also do not reflect the full effect of combining trip limits and area closures in a multispecies fishery managed by controls on DAS. What the Council has observed with this management strategy on Georges Bank, is that fishermen modify their behavior in response to these measures, and that the net effect is greater than predicted by adding the impacts of the individual measures. The trip limit removes the incentive to "pulse fish" on an area that is reopened or where cod concentrations are seen. Meanwhile, area closures covering highest areas of cod concentration protect against creating the discard problem usually associated with trip limits. Furthermore, the trip limit system in this plan allows vessels to land cod in excess of the per-day allowance as long as the DAS clock runs for a sufficient amount of time to account for the overage. When Framework 24 is implemented, vessels will have to remain in port to account for the overage. These three principal measures, trip limits, area closures and DAS, are believed to effectively redirect effort away from critical stocks while allowing fishermen to continue to pursue other fisheries.

Another factor which supports the Council's determination that this measure will achieve the plan objective for GOM cod, is the "backstop" provision that authorizes the Regional Administrator to lower the trip limit to as little as 400 pounds per day when 50 percent of the TAC is reached. The MSMC noted that this type of measure provides additional assurance that the TAC will not be exceeded.

Other factors that may indirectly contribute to reducing effort on cod in the Gulf of Maine that are also not reflected in the analysis in Appendix III include the increased haddock trip limit, the exemption to the cod trip limit for Georges Bank and Southern New England, and the increased abundance of

Georges Bank yellowtail flounder. The Council expects that many vessels, particularly larger vessels that are more capable of fishing offshore and that require larger catches to cover costs and make a profit, will opt to not fish in the Gulf of Maine, and thereby reduce potential effort on GOM cod.

#### **4.1.2 Impacts on other regulated species**

The measures in this framework that will directly impact other regulated species (pollock, white hake, redfish, winter flounder, witch flounder windowpane flounder, and American plaice include the GOM area closures and the proposed raised footrope trawl). Although the magnitude of those impacts cannot be quantified at this time, the Council expects that the impacts will be positive. Indirectly, however, effort shifts may affect other regulated species and offset some of the direct benefits if vessels use their DAS to target other regulated species.

The MSMC Report (p. 58) describes that status of the other regulated species. The report concludes that:

*In general, stock biomass has not significantly changed in recent years...Biomass is increasing slowly for seven of the eleven stocks, while declining for American plaice, white hake, and Cape Cod yellowtail flounder. Stock biomass is low for four stocks and low-to-medium for the remainder. Relative exploitation has declined for all species except white hake and witch flounder. Relative exploitation remains at a high level, but does not seem to be increasing for white hake and witch flounder. This analysis suggests that Amendment 7 has at least prevented further declines in biomass for these stocks, and has allowed slight increase for most stocks through 1996. The analysis also suggests that effort has not shifted from cod, haddock and yellowtail stocks to these species.*

Since overall effort has been reduced under the Amendment 7 rebuilding plan, and since earlier measures aimed at cod, haddock and yellowtail flounder under that plan do not appear to have caused significant impacts on other regulated species, the Council does not expect that proposed measures for protecting GOM cod will have a significant impact on other regulated species. It will continue to monitor the status of those stocks and will take action as required by the Sustainable Fisheries Act to stop overfishing and rebuild overfished stocks in the upcoming FMP amendment.

#### **4.1.3 Impacts on species other than regulated species**

As with the impacts on other regulated species, the Council recognizes that the proposed action may cause some redirection of effort to other species. The magnitude and direction of that effort shift cannot be predicted since individual fishermen must consider a wide range of factors in deciding where and how to fish. Most of the potential target species, however, are now or will soon be managed under a fishery management plan (FMP) and in a manner that is consistent with the Sustainable Fisheries Act. Therefore, the Council does not expect that the proposed measures will have a significant impact on other species not managed by this FMP.



#### **4.1.4 Impacts on marine mammals and protected species**

The Council does not expect that the measures contained in Framework 25 will have an adverse impact on marine mammals and protected species, and may have a positive impact. Amendments 5 and 7 contain a full description of potentially affected protected species (marine mammals, sea turtles and shortnose sturgeon), including those that are threatened and endangered or proposed to be listed as threatened or endangered. Impacts to these species were discussed in the submission documents and in formal consultations pursuant to Section 7(a)(2) of the Endangered Species Act, as well as in the associated Biological Opinions issued by NMFS.

The following is a discussion of specific measures proposed in this framework that could affect some protected species.

##### **General**

Section 3.1 describes in detail the proposed action and alternatives, which include area closures and trip limits to reduce fishing effort on GOM cod and an incentive to shift effort from the Gulf of Maine to Georges Bank through the use of increased haddock trip limits. As has been discussed extensively in previous framework adjustments and amendments, direct adverse impacts to protected species occur chiefly as the result of entanglement in sink gillnet gear. The Council submitted Frameworks 4, 12, 14, 15 and 23 specifically to protect harbor porpoise and Atlantic large whales by reducing potential for encounters with sink gillnet or the likelihood that they will result in mortality or serious injury. Given that numbers of documented entanglements take place in inshore areas, the overall impact of the proposed actions should be positive (that is, large areas will be closed to sink gillnet gear for significant periods of time).

To the extent that an increased haddock trip limit combined with an existing exception to the cod trip limit for vessels fishing south of the Gulf of Maine provide incentives for gillnet vessels to move to offshore areas where the incidence or likelihood of entanglements is reduced, the proposed actions will provide further positive benefits for most protected species.

##### **Harbor Porpoise**

The rolling closures overlap and extend beyond, both in time and space, the current sink gillnet closures in place to protect harbor porpoise (shown in Figure 3.1-1). The Northeast Closure Area which now serves as both a groundfish and harbor porpoise closure remains unchanged. The rolling closure, which is intended to reduce effort in areas that account for high cod landings will also help reduce porpoise or other marine mammal entanglements that now occur outside of the current porpoise time/area closures.

##### **Right Whales**

The Council submitted Framework 23 in early 1997 after an unusually high incidence of right whale mortality in 1996, and in response to the Biological Opinion issued by NMFS on December 13, 1996 stating that fishing operations under the Multispecies FMP were likely to jeopardize the continued existence of the northern right whale. In that action the Council closed the federal waters portion of Cape Cod Bay critical habitat area to sink gillnet fishing from January 1 through May 15, the period

when right whales are most prevalent, until modified gear or alternative fishing practices are available that reduce the incidence or impacts of entanglements.

Management measures contained in Framework 25 should not diminish and could possibly enhance the right whale conservation benefits of Framework 23. Enhanced benefits may accrue as the result of proposed action because it includes a nearby area that would be closed year-round. Because the Framework 23 closure extends for a much longer period for sink gillnet gear than any of the Framework 25 proposals, there is no opportunity for increased sink gillnet activity just before or after the groundfish closure period. The Council does not expect that the rolling closure concept designed to protect Gulf of Maine cod will cause effort displacement to areas where whales are likely to occur.

Based on the frequency of right and humpback whale sightings and the fact that they are present during most months of the year, the Stellwagen Bank/Jeffreys Ledge Area (defined in the interim final rule implementing take reduction measures for Atlantic large whales as all federal waters south of 43°15'N latitude and west of 70°W longitude, except right whale critical habitat, *Federal Register* Vol. 62, No. 140, July 22, 1997) is a region in which the risk of whale/fishery interactions is considered high. Given that sink gillnet gear will be removed from the area under the rolling closure scenario for one month and that part of this high-use area also would be closed year-round, there may be a high probability that this framework adjustment will provide more protection for large whales than currently exists. (Under existing regulations the Mid-coast Area is scheduled to be closed to all groundfish gear, including sink gillnet gear, only from May 10 through May 30.)

#### **4.1.5 Impacts on habitat**

The proposed actions continue the effort reduction program which the Council showed, in the Final Environmental Impact Statement for Amendment 7, would not have a significant negative impact on fish habitat. While modeling or analyzing the impacts on habitat of the proposed one-month closures is not possible, the Council does not expect that the closures will have a significant impact on habitat within the closures because of their relatively short duration. The Western Gulf of Maine Closure Area, which is a year-round closure, will provide protection to the habitat within the area, but may result in a concentration of fishing activity around the outside of the area. The overall net impact on habitat cannot be estimated at this time. The Council also does not expect that the effort displaced from the closures will have a significant impact on habitat outside of the closures since the area over which the effort can disperse is much larger than the area within the closures.

The measures in the framework other than the area closure/cod trip limit measures will not significantly alter the magnitude or intensity of fishing effort on any particular habitat, and therefore will probably not have a significant impact. The proposed haddock trip limit adjustment may cause some effort shifts to Georges Bank but will not cause an overall effort increase (which is regulated by the DAS allocations), and therefore, will also probably not have a significant impact on habitat. The raised-footrope trawl, which is designed to make the gear to fish lighter on the bottom and reduce bycatch, may reduce the impacts of the small-mesh fisheries on habitat in Small Mesh Areas 1 and 2, but the magnitude of such impacts cannot be determined at this time, although they are expected to be somewhat positive.

#### **4.1.6 Impact of taking no action**

Taking no action would result in continued overfishing and biomass decline in the GOM cod stock. The MSMC projected the fishing mortality rate for GOM cod in fishing year 1997 to be  $F=0.78$ , which exceeds the overfishing level ( $F=0.37$ ) and the Amendment 7 goal ( $F=0.29$ ).

### **4.2 Economic impacts**

#### **4.2.1 Economic costs and benefits**

##### **4.2.1.1 Impact of the combined area closure/trip limit measures in the Gulf of Maine**

The Council proposes this framework to achieve the plan objectives of Amendment 7 and the overall economic impacts of this action fall within the range of impacts discussed in the FSEIS for that amendment. This section presents a quantitative and qualitative analysis of the proposed action subject to availability of data, and relative to taking no action to modify current measures. The impacts of the alternative options considered but rejected by the Council are shown in Appendix III.

The proposed action is designed to directly affect haddock and GOM cod landings, but it will also indirectly affect the landings of and revenues from other species. The impacts of the proposed rolling closures on Gulf of Maine cod landings are analyzed with various trip limits in Appendix III using three models:

1. No-displacement model
2. GAMS model
3. Two-bin model

The first model assumes that the vessels do not fish in other areas and/or increase their fishing effort in the closure areas in other months so that all catch from a closed block/month is conserved. The GAMS model assumes that there will be no reduction in total effort with closures and allocates effort from closed times and areas to other block-month combinations in an attempt to maximize revenue to the fleet. The Two-bin model distributes effort from a closed area uniformly throughout the remaining open areas. The following economic impact analysis presents the results of No-displacement model only due to the unavailability of the numerical results for the revenues under the GAMS and the Two-bin models at this time. Therefore, the results should be interpreted with caution since they reflect the maximum revenue and landings losses under the proposed options with no effort displacement to other areas and months.

Framework 25 proposes a combination of measures including area closures and trip limits to directly reduce the fishing mortality rate on Gulf of Maine cod to the Amendment 7 target level for 1998. These measures will also indirectly impact the landings and revenues of other species depending on the degree of effort displacement and revenue recovery from other areas and species. The impacts of the proposed measures on cod landings and revenues are examined separately from the impacts on revenues from other species.

The potential impacts of the area closures on landings and revenues are examined using the information on landings, revenues, and effort in 1996 in the proposed one-month closure areas of GM1, GM2, GM3, GM4, GM5 (see Section 3.1.1 for a description of the areas), and the year-round closure area shown in Figure 3.1-2. Impacts are summarized in Table 4.2-1 although the table does not include the impacts of the proposed trip limits that will be implemented when 50 percent of the TAC is reached (See Appendix III for the impacts of trip limits on total GOM cod landings).

Since the data used by the model cannot be partitioned more precisely than 30-minute squares, the landings in the proposed year-round closure are estimated as a proportion of the total landings in blocks 124, 132 and 139. Specifically, it is assumed that the closure, covers approximately one-third of areas 124 and 132, and two-thirds of the area 139 including the closure areas to the east of these blocks, and the catch rates within each block are uniformly distributed. The area covered by the proposed closure is equal to the area of one 30-minute square, 900 square nautical miles.

If the vessels are not able to recover their losses by shifting effort to other times or areas, the values corresponding to the closed periods for each gear type would show the expected reductions in landings, revenues and effort. Although this assumption probably results in an unrealistically high estimate of negative impacts of the closures, it is employed here to show the maximum expected loss in revenues from other species. The results shown for the closed areas do not represent the maximum loss for GOM cod, however, since other measures including the trip limits are expected to further reduce GOM cod landings.

Table 4.2-1 shows that the overall GOM cod landings will decrease by 4.4 million pounds, or approximately 1,969 metric tons as a result of the proposed closures with no effort displacement. The year-round closure area will reduce the cod landings by about 1,000 metric tons, whereas the other monthly closure areas GM1 through GM4 and the block 129 will account for the other one-half of the decline in landings. Total decline in annual cod revenues due to the area closures, without any effort shift to other areas, will be about \$3.6 million.

When the impacts of other measures are taken into account, however, the total decline in GOM cod landings and revenues will be larger than the estimated impacts of the area closures alone. The Framework 25 measures include a cod trip limit of 700 pounds/day for vessels not in the Gulf of Maine Cod Trip Limit Exemption program until 50 percent of the target TAC is reached, at which time the Regional Administrator may reduce the trip limit to between 400 and 700 pounds per day. The Council expects that the combined effect of the closures, trip limits and other measures in the plan will reduce the Gulf of Maine cod landings by 63 percent from 1997 fishing year landings of 4,812 metric tons to the target TAC level of 1,783 metric tons in 1998. If the price of cod remains constant, this reduction in GOM cod landings (by 6.7 million pounds) will produce a 63 percent drop in cod revenues by \$5.9 million in 1998 at the 1996 average ex-vessel prices (about \$ 0.89 per pound).

Table 4.2-1 also shows the impacts of proposed closures on the revenues from other species assuming that the vessels are able to recover their losses by fishing in other periods and/or areas. Under this assumption, Table 4.2-1 shows that the reduction in revenues from species other than cod will be about \$10.6 million compared to the 1996 levels. In terms of gear type, the proposed closures would have the greatest impact on the trawl fishery with a \$7.6 million reduction, followed by the gillnet fishery by a \$1.8 million reduction in revenues from other species. The impacts on the dredge and the hook sectors will be smaller with an annual loss in fleet-wide revenues from other species by \$1.1 million and \$0.1 million respectively.

Combining the maximum possible impacts of the proposed measures on cod revenues with the loss in revenues from other species results in approximately a \$16.5 million reduction in total revenues. The actual losses, however, will probably be significantly lower than these for the following reasons:

- The results are based on the 1996 annual landings and prices which may change in year 1998. The reduction in catch will probably increase the price of cod and other species affected by the area closures. The increase in prices will partly offset the revenue loss from the reduced landings depending on the price elasticity of the demand for fish, availability of imports and the availability of other substitutes.
- The impacts on net revenues and the producer surplus will also be less than \$16.5 million because of the cost savings from reduced effort under the no-displacement model. The change in producer surplus is measured by the change in revenues and the corresponding change in variable costs under the proposed measures compared to taking no action. Non-wage variable costs include operating expenses such as fuel, ice and oil which will decrease if the vessels are tied up at the dock. If it is assumed that these non-wage variable costs comprise about 28 percent of the gross revenues, the savings in operating expenses would be around \$4.6 million (See FSEIS, Amendments 5 and 7). Combining this with the \$16.5 million revenue loss, the reduction in producer surplus would be around \$11.9 million under the no-displacement model.

It should be emphasized that, these figures represent only short-term losses. As stated in FSEIS of Amendment 7, the rebuilding measures will have negative impacts on revenues, producer and consumer surpluses in the short-term, but increase fleet profits, crew shares, and consumer benefits over the long-term by increasing the stock size and therefore, landings of the regulated species.

As stated above, the potential impacts of effort displacement on revenues cannot be estimated at this time, and for that reason, the potential reductions in landings and revenues are only presented for the no-displacement scenario. There is a good chance, however, that a significant amount of effort will shift to open areas, months or fisheries rather than completely disappearing from the fishery. These effort shifts are not expected to increase the total landings of GOM cod in the open areas since the proposed action includes a safeguard to prevent the TAC from being exceeded significantly. Therefore, the vessels will not be able to recover their losses of GOM cod revenues with effort displacement.

On the other hand, the closures and the cod trip limits will probably induce vessels to change their fishing behavior to target other species rather than take large losses by not shifting effort. In this way, it will be possible for vessels to recover their losses in revenues from other species by fishing in the open areas and months. If there is complete effort displacement, the operating expenses will stay the same, but the reduction in total revenues will be lower, comprising the \$5.9 million loss from the cod revenues, unless, of course, some part of this loss is also compensated for by an increase in revenues from other species after the closures. The short-term decrease in the consumer and the producer surpluses from other species will also be minimized if vessels can recover their losses by fishing in other areas during the months of closure.

In summary, although the actual magnitude of impacts with effort displacement cannot be precisely quantified at this time, the effect of the proposed measures will probably lie between the two extremes of zero displacement (with a \$16.5 million loss in revenues) versus complete effort shift and revenue recovery (with a possible \$5.9 million loss in cod revenues).

**Table 4.2-1 Landings and revenues in and outside of proposed closed areas by gear type  
(Based on 1996 Data)**

	GOM Cod Landings (lbs)	GOM Cod Revenue (\$)	Revenue from other Species (\$)	Total Revenues (\$)	DAS
<b>DREDGE</b>					
Closed Areas*	0	0	1,072,308	1,072,308	288
Open Areas	115	66	9,252,199	9,252,265	2,402
Subtotal	115	66	10,324,507	10,324,573	2,690
<b>GILLNET</b>					
Closed Areas	1,548,422	1,155,792	1,821,602	2,977,394	1,057
Open Areas	4,070,151	3,311,149	7,617,094	10,928,243	4,091
Subtotal	5,618,573	4,466,941	9,438,696	13,905,637	5,148
<b>HOOK</b>					
Closed Areas	158,622	138,131	100,108	238,239	749
Open Areas	394,470	366,693	1,532,265	1,898,958	2,301
Subtotal	553,092	504,824	1,632,373	2,137,197	3,050
<b>TRAWL</b>					
Closed Areas	2,634,442	2,271,563	7,573,717	9,845,281	3,544
Open Areas	6,014,347	5,071,528	44,948,348	50,019,875	19,257
Subtotal	8,648,789	7,343,091	52,522,065	59,865,156	22,801
<b>OTHER GEAR**</b>					
Open Areas	222,990	210,427	96,058,860	96,269,287	11,593
Subtotal	222,990	210,427	96,058,860	96,269,287	11,593
<b>ALL GEAR</b>					
Closed Areas	4,341,486	3,565,486	10,567,736	14,133,222	5,639
Open Areas	10,702,073	8,959,863	159,408,765	168,368,628	39,643
Total	15,043,559	12,525,349	169,976,501	182,501,850	45,282

Notes:

\* Closed areas include currently proposed one-month rolling closures in GM-1 through GM-4 areas, block 129 in June and year-round closure area depicted in Figure 3.1-2.

\*\* The gear other than dredges, gillnets, trawls and hook are exempted from the area closures.

#### 4.2.1.2 Impacts of adjustment to the haddock trip limit

The increase in haddock trip limits will produce positive impacts on the revenues of vessels in that fishery and will in part offset the losses expected under the GOM cod management measures. If these measures were successful to induce vessels to catch haddock up to the 1998 TAC, the landings would increase from 1,608 metric tons to 4,797 metric tons with a potential increase in revenues by \$7 million at the conservative estimate of \$1.00 per pound, or an increase by \$10 million if price is \$1.50 per pound. In short, the short-term net benefits of the haddock trip limit adjustment, i.e., the impacts on the producer surplus, profits and on the consumer surplus are expected to be positive (see Table 4.2-2).

ECONOMIC COSTS AND BENEFITS OF FRAMEWORK 25								
	Impact on prices	Impact on Landings	Impact on Gross Revenues	Impact on Consumer Surplus	Impact on Operating Expenses	Impacts on Fixed Costs	Impact on Producer Surplus	Net Benefits
Cod trip limit decrease	Increase	Decrease	Negative	Negative	Increase	Neutral	Negative	Short-term Negative
Haddock trip limit increase	Decrease	Increase	Positive	Positive	Decrease	Neutral	Positive	Short-term Positive
Area Closures	Increase	Decrease	Negative	Negative	Increase	Neutral	Negative	Short-term Negative

**Table 4.2-2 Summary of economic costs and benefits**

#### 4.2.1.3 Impact on vessels

Appendix IV contains an analysis of vessels in the GOM cod fishery by size, trip length and gear. The analysis uses the most readily available vessel trip report (VTR) data for the current fishing year, that is May through August, and, for comparison purposes, the 1996 fishing year. These months account for approximately one-half of the full-year GOM cod landings based on 1996 full-year data.

The analysis indicates that for the May-through-August period, most of the trips (89% in 1996 and 92% in 1997) and landings (64% and 72%) are on vessels 59 feet and under in length. 489 vessels landed GOM cod during the period in 1996, declining to 357 in 1997. Trips of less than one day accounted for 34% and 41% of GOM cod landings during the period, in 1996 and 1997, respectively. These results suggest that any measure designed to achieve a significant reduction in fishing mortality on GOM cod will probably affect the GOM cod revenues of a proportionally (to the entire fleet) larger number of small, one-day-trip boats.

The landings data for other species is not readily available for this analysis, however, there is more opportunity to recover losses in revenues from those species by shifting effort to other areas and times



than there is to recover GOM cod revenues. The rolling nature of the closures, which limits the time of the closures to one or two months depending on the option, somewhat offsets the impact on these boats. Since the total amount of time available to fish for regulated species is limited by the DAS allocations, significant opportunity to fish the same grounds is available during most of the remainder of the year. Although the open period is not the optimum time for catching cod, it may allow for vessels to redirect effort onto other species. Depending on individual vessel circumstances, other fisheries that are open during the groundfish closures, and which are capable of being conducted on small day boats include lobster, tuna and shrimp.

Appendix VII contains an analysis of port impacts under alternative closed area options without the compounding effects of trip limits or other measures. The analysis also does not include the year-round Western Gulf of Maine Closure Area. The information in Appendix VII is still useful, however, in showing the impacts of the alternative closures for each port by gear type. The impacts of Options 3A and 3B in that analysis are most similar to the proposed closures because of the duration of the closures. The tables for Options 3A and 3B show that Maine, New Hampshire and northern Massachusetts ports will be impacted by the closures, while southern Massachusetts and Rhode Island ports will only negligibly be affected. The tables also show that in Maine ports and in New Hampshire, revenues on gillnet and trawl vessels will be most impacted, while in northern Massachusetts, gillnet, trawl and hook vessels revenues will be more evenly affected.

#### **4.2.2 Impact of the raised footrope trawl requirement for Small Mesh Areas 1 and 2**

The raised footrope trawl requires only a modification of nets already used to fish for whiting, and the costs are within the range of normal costs for net maintenance. The impacts on revenues include both the positive impact of improved product quality and reduced sorting time (which results in increased fishing time), and the negative impact of reduced revenues from marketable bycatch species. These impacts cannot be quantified, but based on the support that this gear has received from fishermen, the Council expects that the economic impacts are positive. The Massachusetts Division of Marine Fisheries has provided some additional supporting comments on the impacts of this gear, see Appendix V.

#### **4.2.3 Impact of the delayed implementation of VMS**

The delay in required implementation of the VMS will have a positive impact on those vessels that do not already have the system but would be required to install it at the start of the next fishing year. The cost of the system is approximately \$5,000 plus an estimated \$100/month for message fees. Lease/purchase arrangements are reportedly available that would amortize the cost. Annualized lease/purchase costs range between \$2,100 and \$2,300, including messaging costs. The Council is proposing this measure to partially alleviate the economic hardship some vessels would otherwise incur following the implementation of additional conservation restrictions in the Gulf of Maine.

### **4.3 Social impacts and impacts on communities**

The proposed measures will require fishermen and their communities to adjust to the restrictions and changes contained in this framework. How those adjustments will affect individuals, their families or communities varies with a number of factors, such as their dependence on GOM cod and their ability to

increase the value of the reduced catch or to shift effort to other fisheries to maintain a stream of revenues. These impacts, however, need to be considered in the context of the no-action alternative where the GOM cod fishery is projected to collapse. Further declines in stock levels resulting from no-action, or insufficient action, would lengthen the recovery periods and, therefore, the period over which there would be negative social and community impacts.

Qualitatively, therefore, the Council recognizes that there may be short-term social hardships resulting from the action, but it notes that these impacts are not significantly different from what was predicted in Amendment 7. Long-term, the Council expects that any social impacts will be positive in comparison to taking no action because of the benefits of rebuilding the resource base of the fishery.

Appendix VII contains an analysis of the impacts of two options which the Council had considered, based on one-month and two-month rolling closures and other measures. Of the two options, the proposed action most closely resembles Option 3 because of the one-month rolling closures. Due to data limitations, the analysis cannot be used to determine the absolute level of impacts but it is useful for showing how the impacts will be distributed along the coast. Not surprisingly, the ports in northern Massachusetts, New Hampshire and southern Maine will be most affected since they are closest in proximity to the closures, and the fisheries are primarily conducted by small vessels on one-day or two-day trips.

## **5. APPLICABLE LAW**

### **5.1 Magnuson-Stevens Act, Consistency with National Standards**

Section 301 of the Magnuson-Stevens Act requires that regulations implementing any fishery management plan or amendment be consistent with the ten national standards listed below.

1. *Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.*

This action is a continuation of the stock-rebuilding program initiated by the Council with Amendment 7 to the FMP. This framework implements measures specific to Gulf of Maine cod that will reduce fishing mortality rates to levels that will stop overfishing and allow rebuilding. Action taken by the Council in previous frameworks and in Amendment 7 has successfully stopped overfishing for other cod, haddock and yellowtail flounder stocks. The Council's overall goal is to rebuild stocks above minimum acceptable levels to achieve optimum yield on a sustainable basis. This action is consistent with the revised standards of the Sustainable Fisheries Act to stop overfishing *and* rebuild overfished stocks.

2. *Conservation and management measures shall be based on the best scientific information.*

The information used to develop this action is the best scientific information available. The

Multispecies Monitoring Committee, on whose report the Council based this framework, used information provided by the 24<sup>th</sup> Stock Assessment Workshop in July, 1997 on the status of the stocks, updated with landings and effort information provided by NMFS for 1997 fishing year to the most recent time available. NMFS continually updates landings and effort information for Council review at each of its meetings.

3. *To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.*

The fishery management plan and the stock rebuilding plan are based on a combination of measures which apply to all regulated species, such as days-at-sea, and to specific stocks throughout their range, such as trip limits. Since individual stocks within the multispecies complex are at different levels relative to their respective overfishing definitions or rebuilding targets, the Council has, to the extent practicable, developed measures designed to address specific stock needs while not constraining other fisheries in the management unit.

4. *Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.*

The measures in this framework adjustment do not discriminate between residents of different states, although different states will be differentially affected by the measures, especially those bordering the Gulf of Maine. The Council has chosen the option which, based on its review of public comments and analysis, will most fairly distribute the impacts of the conservation plan.

5. *Conservation and management measures shall, where practicable consider efficiency in the utilization of fishery resources; except that not such measure shall have economic allocation as its sole purpose.*

The Council has considered efficiency in the utilization of fishery resources by selecting the alternative that provides the greatest opportunity for vessels to continue fishing on stocks other than those in immediate need of rebuilding. Since Gulf of Maine cod is concentrated in inshore waters, the measures designed to significantly reduce effort on that stock will necessarily affect the ability of inshore vessels to fish in their traditional manner. However, the Council chose the proposed action from a range of alternatives, in large part because it provided the most opportunity for those vessels to seek alternate fisheries.

6. *Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.*

The Council, with this framework, has taken into account variations in fisheries, fishery resources and catches by seeking the optimal combination of measures (days-at-sea, trip limits and area closures) that maximizes flexibility and opportunity while still achieving the conservation goals of the plan. The plan contains exemptions for gear types and fisheries that do not significantly affect the target stocks of the plan or that do not compromise the enforceability of the plan's regulations.

7. *Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.*

The Council has chosen measures for this framework which minimizes costs within the constraints of the conservation goals. It has sought a mix of trip limits, area closures and days-at-sea that minimizes losses to revenues from other fisheries while still achieving the fishing mortality targets for specific stocks in need of conservation.

8. *Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse impacts on such communities.*

The Council considered the importance of all fishery resources, not just Gulf of Maine cod, to the affected communities in selecting the proposed action from the range of alternatives that would achieve the conservation goals of the plan. The Council chose the alternative for this framework which would maximize opportunity for inshore vessels to participate in other fisheries so as to minimize the impacts on those vessels and their shoreside support businesses. The Council recognizes that there will be short term impacts on these communities as vessels adjust to the regulations, but it has considered those impacts relative to taking no action to rebuild the resource base and achieving sustainability.

9. *Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.*

For this framework, the Council has combined trip limits and area closures so as to reduce catches of Gulf of Maine cod and at the same time, minimize discarding. The area closures cover times of highest cod concentration, thereby reducing the potential for discarding often associated with restrictive trip limits. The trip limit itself reduces the need for discarding by being on a per-day basis. Furthermore, existing trip limit rules allow vessels to land overages. The combined trip limit and area closure system is intended to cause vessels to redirect their groundfish effort away from cod. In this framework, the Council is also requiring the use of the raised-footrope trawl in two exempted fisheries. This gear has been shown to significantly reduce the bycatch of juvenile flatfish and other

bottom dwelling species while not diminishing catches of the target species, whiting. The increased haddock trip limit also reduces the potential for vessels to have to discard haddock as the stock rebuilds and the catches, incidental or directed, increase.

10. *Conservation and management measures shall, to the extent practicable, promote safety of human life at sea.*

The Council considered safety in developing and reviewing alternatives, and it selected this option, in part because it minimized the closure of inshore grounds and provided the greatest range of opportunity for inshore fishermen, thereby promoting safety to the extent practicable within the constraints of the conservation goals of the plan. The Council also notes that the regulations do not require fishermen to operate in an unsafe manner.

## **5.2 National Environmental Policy Act (NEPA)**

The Council conducted an analysis of the environmental impacts of the stock rebuilding plan under Amendment 7. The Final Environmental Impact Statement (FSIES) indicated that the impacts of Amendment 7 would be significant, particularly the positive biological and long-term economic impacts of rebuilding the stocks.

### **5.2.1 Environmental Assessment**

Section 2.1 of this document contains a discussion of the purpose and need for the proposed action. Section 3.0 contains a description of the proposed action and alternatives, including the no-action alternative. Section 4.0 (and Appendices) contains an analysis of potential impacts. Based on this analysis, the Council finds that the proposed action will have no significant impact on the environment.

In developing the proposed measures and in reviewing the analysis of impacts contained in this Environmental Assessment, the Council has consulted with NMFS, the Mid-Atlantic Fishery Management Council, Atlantic States Marine Fisheries Commission and the state marine fisheries agencies in New England through their participation in Council and Groundfish Committee meetings. The Council has also informed the interested public of the proposed action and review of environmental documents through notice in the *Federal Register* and by mailing of Council meeting notices and agendas to approximately 1,650 persons. About 850 interested parties receive notices of the Groundfish committee meetings.

### **5.2.2 Finding of No Significant Impact (FONSI)**

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

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

The proposed action is part of an ongoing stock rebuilding program established by Amendment 7 that is based on reducing overall effort. More specifically, this action focuses on rebuilding the GOM cod stock which will enhance its long-term productive capability.

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

The proposed action continues an effort-reduction program which the Council expects will not have a negative impact on fish habitat. In response to Sustainable Fisheries Act requirements, the Council has undertaken an separate effort to define essential fish habitat (EFH) and identify threats to that habitat. When the EFH analysis is complete, the Council will amend the fishery management plan to bring it into compliance with the new requirements.

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

Since the measures provide flexibility and continuous opportunity to fish within the constraints of the conservation needs of the plan, the Council expects that the proposed measures will have positive impact on safety. The measures do not require vessels to take risks that compromise safety of vessel and crew.

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

The Council does not expect the proposed action to have an adverse effect on marine mammals or other protected species. In fact the proposed area closures may enhance marine mammal protection measures currently in place.

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

The measures in this framework are adjustments to the stock rebuilding program established under Amendment 7. For this reason, the Council does not expect the action to have any cumulative adverse effect on the target resource. In Amendment 7, the Council recognized that effort shifts could occur that may have an adverse impact on other stocks, although the direction and magnitude of that impact could not be predicted. The proposed measures do not substantially change the effect of the stock rebuilding plan on any related stocks nor result in any cumulative adverse effect.

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

**FONSI STATEMENT:** In view of the analysis presented in this document and in the FSEIS for Amendment #7 to the Northeast Multispecies Fishery Management Plan, the proposed action will not significantly affect the quality of the human environment with specific reference to the criteria contained in NAO 216-6 implementing the National Environmental Policy Act. Accordingly, the preparation of a Supplemental Environmental Impact Statement for this proposed action is not necessary.

\_\_\_\_\_  
**Assistant Administrator  
for Fisheries, NOAA**

\_\_\_\_\_  
**Date**

### **5.3 Regulatory Impact Review**

This section provides the information necessary for the Secretary of Commerce to address the requirements of Executive Order (EO) 12866 and the Regulatory Flexibility Act (RFA). The statement of the problem and the need for management are described in earlier parts of this document, in Section 1.2, Background, and Section 2.1, Purpose and Need. The alternatives to the proposed regulatory action, including the no-action alternative, are described in Section 3.0. The economic impacts are described in Section 4.2, and summarized below under the discussion of how the proposed action is characterized under EO 12866 and the RFA.

#### **5.3.1 Executive Order 12866**

The proposed action does not constitute a significant regulatory action under Executive Order 12866 for the following reasons:

(1) The management proposals will not have a significantly different impact on the landings and revenues of the fishery than the levels anticipated in Amendment 7. The proposed measures are intended to reduce the GOM cod landings in the short-term by approximately 63 percent from their 1997 levels. Revenues from GOM cod will be proportionally reduced, depending on the price changes that take place. The revenues from other species may be reduced as well to a degree determined by the ability of the vessels to recover their losses by shifting effort to other areas during the period of closure or by targeting other species.

The proposed measures regarding the haddock trip limit will, however, have positive impacts on revenues. Delayed implementation of VMS will also have a positive impact on those vessels that do not already have the system but would be required to install it at the start of the next fishing year. The raised footrope trawl requirement will include both positive and negative impacts by improving product quality, and reducing sorting time while at the same time decreasing revenues from marketable bycatch species.

The overall economic impact of these measures, while they cannot be assessed quantitatively, fall within the range of impacts discussed in the FSEIS of Amendment 7. The short term impacts of the GOM cod measures will lie somewhere between a \$5.9 million loss in cod revenues and a \$ 16.5 million maximum loss under a no-effort displacement scenario. The haddock trip limit adjustment may lead, however, to a potential increase in revenues between \$7 and \$10 million depending on the price of haddock, and may therefore offset negative impacts of the area closures and cod trip limits.

The net impact on the economy will also be positive over the long term as predicted in the FSEIS of Amendment 7. The proposed action will not have an annual effect on the economy of more than \$100 million given the fact that even under Amendment 7 regulations, the annual effect on the economy is not expected to reach \$100 million despite the dramatic reductions in the overall fishing effort planned by this amendment.

(2) The proposed measures contained in this framework are designed to achieve the biological objectives of Amendment 7, and to provide economic relief to the industry whenever possible without compromising the conservation goals. The area closures and cod trip limits will reduce the cod landings and revenues in the short-term, but will contribute to stock rebuilding, and, therefore, will increase the net economic benefits in the long term. The modification of the haddock trip limit and delayed implementation of VMS will have short-term positive economic impacts on the industry which may offset some part of the short-term negative impacts of other measures (Section 4.2). For these reasons, the proposed action will not adversely affect in a material way the economy, productivity, competition and jobs.

(3) For the same reasons as above, the proposed action will not significantly affect competition, jobs, the environment, or state, local or tribal governments and communities. The area closures and trip limits will not affect safety or public health.

(4) The proposed action will not create an inconsistency or otherwise interfere with an action taken or planned by another agency. No other agency has indicated that it plans an action that will impact the same areas and the fisheries.

(5) The proposed action will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of their recipients.

(6) The proposed action does not raise novel legal or policy issues. Regulations regarding area closures, trip limits, and gear requirements have already been used to manage fisheries in the northeast.

### **5.3.2 Regulatory Flexibility Act (RFA)**

The purpose of the RFA is to reduce the impact of burdensome regulations and record-keeping requirements on small entities (small businesses, organizations or governments). The RFA applies to any rule or regulation that must undergo “notice and comment” under the Administrative Procedures Act (APA), specifically those rules published as proposed rules. When the RFA applies, the Council must



assess the effects of the regulations to determine if they will have a “significant economic impact on a substantial number of small entities.” The Council must then either provide an explanation that there is not a significant impact (as described in the guidelines to the RFA), or prepare an initial regulatory flexibility analysis (IRFA). Since this action is submitted as a final rule, not subject to further notice and comment under the APA, the RFA does not apply.

#### **5.4 Endangered Species Act (ESA)**

An adequate discussion of protected species is contained in Section E.6.3.4, Endangered Species and Marine Mammals, of the Amendment 5 FSEIS and Amendment 7 FSEIS, and the associated NMFS Biological Opinions issued in November, 1993, February, 1996 and December 13, 1996.

#### **5.5 Coastal Zone Management Act (CZMA)**

Upon the submission of Amendment 7, the Council conducted a review of the FMP for its consistency with the coastal zone management plans of the affected states. All the states concurred with the Council’s consistency determinations. See Section 8.5, Volume II of Amendment 7 for the Council’s consistency determination. The response letters of the states are on file at the Council office. The Council has determined that the proposed action is within the scope of measures already reviewed for consistency with states’ CZM plans and is, therefore, consistent with those plans. The Council has notified potentially affected states of this action and of its determination that the action is consistent with its earlier determination.

#### **5.6 Paperwork Reduction Act (PRA)**

The proposed action contains no new collection of information requirements.