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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120109034-2171-01]

RIN 0648-BB62

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 47

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to approve Framework Adjustment 47 (Framework 47) to the Northeast (NE) Multispecies Fishery Management Plan (FMP) and to implement its measures through the proposed regulations. Framework 47 was developed and adopted by the New England Fishery Management Council (Council) based on the biennial review process established in the NE Multispecies FMP to develop annual catch limits (ACLs) and revise management measures necessary to rebuild overfished groundfish stocks and achieve the goals and objectives of the FMP. NMFS also proposes management measures and revisions to existing regulations that are not included in Framework 47, including common pool management measures for fishing year (FY) 2012, modification of the Ruhle trawl definition, modification of the method used to estimate fillets or parts of fish landed for at-home consumption, and clarification of the regulations for charter/party and recreational groundfish vessels fishing in groundfish closed areas. The proposed regulations are intended to prevent overfishing, rebuild

overfished stocks, achieve optimum yield, and ensure that management measures are based on the best available scientific information.

DATES: Comments must be received by [insert date 15 days from date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified by "NOAA-NMFS-2012-0004," by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal www.regulations.gov. To submit comments via the e-Rulemaking Portal, first click the "submit a comment" icon, then enter NOAA-NMFS-2012-0004 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the "Submit a Comment" icon on the right of that line.
- Mail: Submit written comments to Daniel S. Morris, Acting Regional Administrator, 55 Great Republic Drive, Gloucester, MA 01930.
- Fax (978) 281-9135; Attn*:* Sarah Heil

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required

fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

An environmental assessment (EA) was prepared for Framework 47 that describes the proposed action and other considered alternatives, as well as an analysis of the impacts of the proposed measures and alternatives. Copies of Framework 47, the draft EA, its Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Act (IRFA) analysis prepared by the Council are available upon request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The Framework 47 EA/RIR/IRFA are also accessible via the Internet at http://www.nefmc.org/nemulti/index.html or http://www.nero.noaa.gov.

FOR FURTHER INFORMATION CONTACT: Sarah Heil, Fishery Policy Analyst, phone: 978-281-9257, fax: 978-281-9135.

SUPPLEMENTARY INFORMATION:

Background

The NE Multispecies FMP specifies management measures for 16 species in Federal waters off the New England and Mid-Atlantic coasts, including both large-mesh and small-mesh species. Small-mesh species include silver hake (whiting), red hake, offshore hake, and ocean pout, and large-mesh species include Atlantic cod, haddock, yellowtail flounder, pollock, American plaice, witch flounder, white hake, windowpane flounder, Atlantic halibut, winter flounder, redfish, and Atlantic wolffish. Large-mesh species, which are referred to as "regulated species," are divided into 19 fish stocks, and along with ocean pout, comprise the groundfish complex.

Amendment 16 to the NE Multispecies FMP (Amendment 16) established a process for setting acceptable biological catches (ABCs) and ACLs for regulated species and ocean pout, as well as distributing the available catch among the various components of the groundfish fishery. Amendment 16 also established accountability measures (AMs) for the 20 groundfish stocks in order to prevent overfishing of these stocks and correct or mitigate any overages of the ACLs. Framework 44 to the NE Multispecies FMP (Framework 44) set the ABCs and ACLs for FYs 2010-2012. In 2011, Framework 45 to the NE Multispecies FMP (Framework 45) revised the ABCs and ACLs for five stocks for FYs 2011-2012.

The Council adopted Framework 47 on November 16, 2011, and submitted it to NMFS on February 7, 2012, for approval. The Council developed Framework 47 as part of the biennial review process established in the FMP to revise measures necessary to prevent overfishing and rebuild overfished stocks, and achieve the goals and objectives of the NE Multispecies FMP. The Council developed Framework 47 to respond to recent stock assessments and updated stock information, as well as to revise management measures after the fishery has operated for more than 1 year under ACLs and AMs. If approved, Framework 47 will be implemented at the start of FY 2012 on May 1, 2012. One measure, if approved, would apply retroactively to the 2011 scallop fishing year, which ended on February 28, 2012, as described in Item 11 of this preamble.

Proposed Measures

The Council reviewed the proposed regulations, as drafted by NMFS, and deemed them to be consistent with Framework 47 and necessary to implement the proposed measures as specified in section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Some of the measures included in this action are being proposed by

NMFS under the authority of section 305(d) of the Magnuson-Stevens Act, which provides that the Secretary of Commerce may promulgate regulations necessary to ensure that fishery management plans or amendments are carried out in accordance with the Magnuson-Steven Act. These measures, which are identified and described in this preamble, are necessary to implement changes to the Atlantic Sea Scallop FMP proposed by the Council in Framework 47, as well as revisions to the regulations that are not included in Framework 47, but that are necessary to achieve the objectives of the FMP. This proposed rule also includes management measures for the common pool fishery for FY 2012 that are not included in Framework 47, but that may be considered by the Regional Administrator (RA) under authority provided by the FMP.

1. Status Determination Criteria for Winter Flounder and Gulf of Maine Cod

Amendment 16 updated the status determination criteria for existing NE multispecies regulated species and ocean pout stocks based on the best available scientific information as determined by the 2008 Groundfish Assessment Review Meeting (GARM III). Framework 45 updated the status determination criteria for pollock to reflect the results of a new pollock stock assessment conducted in 2010. New assessments were conducted for Gulf of Maine (GOM), Georges Bank (GB), and Southern New England/Mid-Atlantic (SNE/MA) winter flounder in June 2011. In addition, a new assessment for GOM cod was conducted in December 2011. Therefore, Framework 47 proposes to update the status determination criteria for the three winter flounder stocks and GOM cod to incorporate the results of the recent stock assessments into the FMP. The proposed revisions are based on the best scientific information available.

The results from GARM III indicated that overfishing was occurring for GB and SNE/MA winter flounder and GOM cod, and SNE/MA winter flounder was overfished. The overfished and overfishing status for GOM winter flounder was unknown. Based on the new

assessments, overfishing is no longer occurring for GB or SNE/MA winter flounder. Also, the overfishing status is no longer unknown for GOM winter flounder, and overfishing is not occurring for this stock. Based on the recent GOM cod stock assessment, overfishing is occurring for GOM cod, and the stock is overfished.

The revised biomass target for GB and SNE/MA winter flounder is spawning stock biomass at maximum sustainable yield (SSB_{MSY}), and the maximum fishing mortality rate (F) threshold is F_{MSY}. The revised maximum F threshold for GOM winter flounder is F at 40 percent of the maximum spawning potential ($F_{40\%MSP}$). The biomass target for this stock is still undefined. For GOM cod, the biomass target is unchanged from GARM III and is SSB at 40 percent MSP ($SSB_{40\%MSP}$). The maximum F threshold proxy is also unchanged from GARM III and is $F_{40\%MSP}$. The revised status determination criteria proposed in Framework 47 are presented in Table 1, and the numerical estimates of these criteria are presented in Table 2.

Table 1—Proposed Status Determination Criteria for Winter Flounder Stocks and GOM Cod

Stock	Biomass Target	Minimum Biomass Threshold	Maximum Fishing Mortality Threshold
GOM winter flounder	Undefined	Undefined	$F_{40\%MSP}$
GB winter flounder	SSB_{MSY}	½ SSB_{MSY}	F_{MSY}
SNE/MA winter flounder	SSB_{MSY}	½ SSB_{MSY}	F_{MSY}
GOM cod	$SSB_{40\%MSP}$	½ $SSB_{40\%MSP}$	$F_{40\%MSP}$

Table 2—Numerical Estimates of the Proposed Status Determination Criteria for Winter Flounder Stocks and GOM Cod

Stock	Biomass Target (mt)	Maximum Fishing Mortality Threshold	MSY (mt)
GOM winter flounder	Undefined	0.31	Undefined
GB winter flounder	10,100	0.42	3,700
SNE/MA winter flounder	43,661	0.29	11,728
GOM cod	61,218	0.20	10,392

2. Rebuilding Program for GB Yellowtail Flounder

GB yellowtail flounder is jointly managed with Canada under the U.S./Canada Resource Sharing Understanding (Understanding). Framework 45 revised the GB yellowtail flounder rebuilding program, based on the best available scientific information, to rebuild the stock by 2016 with a 50-percent probability of success. This revision extended the rebuilding program to the maximum 10-year rebuilding period allowed by the Magnuson-Stevens Act in order to maximize the amount of GB yellowtail flounder that could be caught while the stock rebuilds.

Under the International Fisheries Agreement Clarification Act (IFACA) enacted into law on January 4, 2011, the Council and NMFS have flexibility in establishing rebuilding programs for stocks that are jointly managed with Canada under the Understanding. For rebuilding stocks managed under the Understanding, the IFACA provides that the Council and NMFS may consider decisions under the Understanding as management measures under an international agreement in order to provide an exception to the Magnuson- Stevens Act's maximum 10-year rebuilding period requirement.

Each year, pursuant to the Understanding, the TMGC meets to consider the scientific advice of the Transboundary Resources Assessment Committee and to make decisions regarding total allowable catch (TAC) recommendations for the upcoming year for each stocks managed under the Understanding. The TMGC adopts harvest strategies to guide its annual TAC recommendations. At its September 2011 meeting, the TMGC reaffirmed its harvest strategy for GB yellowtail flounder to maintain a low to neutral risk of exceeding the fishing mortality limit reference (F_{ref}) of 0.25. Based on that harvest strategy, the TMGC developed its 2012 TAC recommendation for GB yellowtail flounder and forwarded the recommendation to the Council for approval See Item 5 for more information on the 2012 TMGC TAC recommendations..

Given the IFACA, and that the TMGC decisions regarding a GB yellowtail flounder harvest strategy and annual TAC are considered management measures under an international agreement, the rebuilding program for GB yellowtail flounder can exceed 10 years. Therefore, Framework 47 proposes to revise the rebuilding strategy for GB yellowtail flounder. The proposed rebuilding strategy for GB yellowtail flounder would rebuild the stock by 2032 with a 50-percent probability of success. This rebuilding strategy is based on an F of 0.21 and would extend 26 years beyond the rebuilding program start date (2006). The proposed rebuilding time period is as short as possible, taking into account the Understanding and decisions made under it, and the needs of the fishing communities, and will provide more flexibility for negotiating annual catches with Canada.

3. Overfishing Levels and Acceptable Biological Catches

The overfishing level (OFL) for each stock is calculated using the estimated stock size and F_{MSY} (i.e., the fishing mortality rate that, if applied over the long term, would result in maximum sustainable yield). ABCs for each stock are recommended by the Council's Scientific and Statistical Committee (SSC), and are lower than the OFLs in order to account for scientific uncertainty. The ABCs are calculated using the estimated stock size for a particular year and are based on the catch associated with 75 percent of F_{MSY} or the F required to rebuild the stock within the defined rebuilding time period ($F_{rebuild}$), whichever is lower. For SNE/MA winter flounder, the ABC is calculated using the F expected to result from management measures that are designed to achieve an F as close to zero as practicable. The Canadian share/allowance of an ABC, or the expected Canadian catch, is deducted from the ABC available for each pertinent stock. The U.S. ABC is the amount available to the U.S. fishery after accounting for Canadian catch.

Framework 44 specified OFLs and ABCs for each stock for FY 2010-2012 based on the best scientific information available, and Framework 45 revised the OFLs and ABCs for five stocks for FY 2011-2012 based on updated stock information. Framework 47 proposes to set the OFLs and ABCs for nine stocks for FY 2012-2014 that are assessed with an index-based stock assessment or that have had a recent stock assessment completed, as well as set the OFL and ABC for FY 2012-2013 for GB yellowtail flounder based on updated stock information (Table 3). For nine stocks, Framework 47 proposes to adopt the OFLs and ABCs for FY 2012 that were previously specified in Framework 44 or Framework 45 (Table 3). These stocks were last assessed at GARM III. The SSC determined that projections from the GARM III assessment were not a reliable basis for providing catch advice for these stocks for FY 2013-2014. As a result, stock assessment updates were completed in February 2012 for these stocks, and the results of these updates will be used to set OFLs and ABCs for FY 2013-2014. The Council intends to incorporate the assessment update results and specify OFLs and ABCs for FY 2013-2014 for these stocks in a future framework action. A new stock assessment is scheduled for SNE/MA yellowtail flounder in June 2012. The results of this stock assessment will be used to specify OFLs and ABCs for the stock for FY 2013-2014, and will also be incorporated into a future framework action by the Council. Updated information for stocks assessed with an index-based assessment may also be used to revise the OFLs and ABCs for FY 2013-2014 specified in this action. The OFLs and ABCs proposed in Framework 47 are based on the most recent stock assessment information, which is the best scientific information available.

Framework 47, as approved by the Council on November 16, 2011, proposed to set specifications for GOM cod for FY 2012-2014 based on the most recent stock assessment that was completed in December 2011. The results of the assessment indicate that the stock is

overfished and overfishing is occurring. The assessment results also indicate that GOM cod cannot rebuild by its rebuilding end date of 2014 even in the absence of all fishing mortality. Given the final results of the GOM cod assessment, and that rebuilding cannot be achieved within the rebuilding period, NMFS concluded that the NE Multispecies FMP is not making adequate progress toward ending overfishing and rebuilding GOM cod. NMFS notified the Council of this determination in a letter dated January 26, 2012, and of the requirement for the Council to implement a plan by May 1, 2013, to immediately end overfishing for GOM cod. The Council was also notified that it has up to 2 years to address GOM cod rebuilding, although NMFS urged the Council to do this by the beginning of FY 2013 to coincide with measures to end overfishing. In addition, NMFS indicated that the Magnuson-Stevens Act provides some flexibility for NMFS to only reduce overfishing, rather than end it immediately, during FY 2012 while the Council develops measures to address GOM cod.

At its January 25, 2012, meeting, the Council's SSC met to discuss the GOM cod stock assessment. At the request of the Council, the SSC did not recommended ABCs for GOM cod for FY 2012-2014. The SSC reviewed the stock assessment and identified issues that may warrant a closer examination and that may influence the interpretation of the assessment results. Subsequently, at its February 1, 2012, meeting, the Council did not adopt ABCs for GOM cod to be implemented in Framework 47. The Council requested that NMFS implement an interim action for FY 2012 to reduce overfishing on GOM cod while the Council responds to the new GOM cod stock assessment and develops measures for FY 2013 that will immediately end overfishing. NMFS has committed that it intends to implement an interim action to reduce overfishing for GOM cod and establish catch levels for this stock for FY 2012.

Therefore, this action does not include OFLs and ABCs for GOM cod for FY 2012-2014. If no action is taken to specify a new ABC for GOM cod for FY 2012, the FY 2012 ABC previously specified in Framework 44 (9,018 mt) would go into effect on May 1, 2012. The SSC will meet in the future to recommend ABCs for FY 2013-2014 for GOM cod, and the Council intends to adopt these ABCs in a future management action.

Table 3—Proposed FY 2012-2014 OFLs and ABCs (mt)

Stock	OFL			U.S. ABC		
	2012	2013	2014	2012	2013	2014
GB cod	7,311	-	-	5,103	-	-
GB haddock	51,150	-	-	30,726	-	-
GOM haddock	1,296	-	-	1,013	-	-
GB yellowtail flounder	1,691	1,691	-	564	564	
SNE/MA yellowtail flounder	3,166	-	-	1,003	-	-
Cape Cod (CC)/GOM yellowtail flounder	1,508	-	-	1,159	-	-
American plaice	4,727	-	-	3,632	-	-
Witch flounder	2,141	-	-	1,639	-	-
GB winter flounder	4,839	4,819	4,626	3,753	3,750	3,598
GOM winter flounder	1,458	1,458	1,458	1,078	1,078	1,078
SNE/MA winter flounder	2,336	2,637	3,471	626	697	912
Redfish	12,036	-	-	9,224	-	-
White hake	5,306	-	-	3,638	-	-
Pollock	19,887	20,060	20,554	15,400	15,600	16,000
Northern windowpane flounder	230	230	230	173	173	173
Southern windowpane flounder	515	515	515	386	386	386
Ocean pout	342	342	342	256	256	256
Atlantic halibut	143	143	143	85	85	85
Atlantic wolffish	92	92	92	83	83	83

4. Annual Catch Limits

Unless otherwise noted below, the U.S. ABC for each stock (for each fishing year) is divided into the following fishery components to account for all sources of fishing mortality: State waters (portion of ABC expected to be caught from state waters outside Federal

management); other sub-components (expected catch by non-groundfish fisheries); scallop fishery; mid-water trawl fishery; commercial groundfish fishery; and recreational groundfish fishery. Currently, the scallop fishery only receives an allocation for GB and SNE/MA yellowtail flounder, the mid-water trawl fishery only receives an allocation for GB and GOM haddock, and the recreational groundfish fishery only receives an allocation for GOM cod and haddock. Once the ABC is divided, sub-annual catch limits (sub-ACLs) and ACL sub-components are set by reducing the amount of the ABC distributed to each component of the fishery to account for management uncertainty. Management uncertainty is the likelihood that management measures will result in a level of catch greater than expected. For each stock, management uncertainty is estimated using the following criteria: Enforceability, monitoring adequacy, precision of management tools, latent effort, and catch of groundfish in non-groundfish fisheries. Appendix III of the Framework 47 EA provides a detailed description of the process used to estimate management uncertainty and calculate ACLs for this action (see ADDRESSES).

The total ACL is the sum of all of the sub-ACLs and ACL sub-components, and is the catch limit for a particular year after accounting for both scientific and management uncertainty. Landings and discards from all fisheries (commercial and recreational groundfish fishery, state waters, and non-groundfish fisheries) are counted against the catch limit for each stock. Components of the fishery that are allocated a sub-ACL for a particular stock are subject to AMs if the catch limit is exceeded. ACL sub-components represent the expected catch by components of the fishery that are not subject to AMs (e.g., state waters).

Based on the ABCs proposed in this action, Framework 47 also proposes ACLs for each of the groundfish stocks, except GOM cod, as described in Item 3 of this preamble. The

proposed ACLs for FY 2012-2014 are presented in Table 4 through Table 7. The percentage of the ABC deducted for expected catch from state waters is between 1 and 10 percent for most stocks. However, for GOM winter flounder, SNE/MA winter flounder, and Atlantic halibut, 25 percent, 28 percent, and 50 percent of the ABC was set aside for state waters catch, respectively. The amount of the ABC deducted for expected catch from non-groundfish fisheries (other sub-components) is between 2 and 9 percent for each stock, but 19 percent and 70 percent of the ABC is set aside for northern and southern windowpane flounder, respectively. Seventy percent of the ABC for southern windowpane flounder is deducted based partly on the expected catch of this stock by the scallop fishery. To adjust for management uncertainty, the default reduction to the ABC component for most stocks and components of the fishery was 5 percent. Only 3 percent was deduced for stocks or components of the fishery with less management uncertainty, and 7 percent was deducted for stocks or components with more management uncertainty.

This proposed action would not change the initial allocation of yellowtail flounder to the scallop fishery for FY 2012 that was specified in Framework 44. The yellowtail flounder allocation to the scallop fishery is based on the expected catch of yellowtail flounder calculated from the projected scallop harvest for the fishing year. Framework 44 allocated 90 percent of the projected yellowtail flounder catch by the scallop fishery for FY 2012 for both SNE/MA yellowtail flounder and GB yellowtail flounder.

The commercial groundfish sub-ACL is further divided into the non-sector (common pool) sub-ACL and the sector sub-ACL, based on the total vessel enrollment in all sectors and the cumulative Potential Sector Contributions associated with those sectors. The proposed distribution of the groundfish sub-ACL between the common pool and sectors presented in Tables 4 through Table 7 are based on preliminary FY 2012 sector rosters submitted to NMFS as

of December 1, 2011. This distribution is different from the common pool and sector sub-ACLs included in the Framework 47 EA, which were based on FY 2011 sector rosters, and do not reflect updated rosters submitted to NMFS for FY 2012. However, this distribution is the same as the sector sub-ACLs and Annual Catch Entitlements specified for each sector in the proposed rule to approve sector operations plans for FY 2012 that was published in the Federal Register on February 15, 2012 (77 FR 8780).

FY 2012 sector rosters will not be finalized until May 1, 2012, because owners of individual permits signed up to participate in sectors have until April 30, 2012, to drop out of a sector and fish in the common pool for FY 2012. In addition, NMFS extended the deadline to join a sector for FY 2012 through April 30, 2012, in the proposed rule to approve sector operations plan for FY 2012 (77 FR 8780). This opportunity is being provided for common pool vessels due to concerns for the recent GOM cod assessment and the potential impacts for FY 2012 catch limits. Therefore, it is possible that the sector sub-ACLs listed in the tables below may change due to changes in the sector rosters. Updated sector sub-ACLs will be published in the Framework 47 final rule, or a subsequent adjustment rule to reflect the final FY 2012 sector rosters as of May 1, 2012.

Table 4—Proposed FY 2012 Allocations to the Recreational Groundfish Fishery, Scallop Fishery, and Mid-Water Trawl Fishery (mt)

Fishery	Stock	
Recreational Groundfish Fishery	GOM Cod	GOM Haddock
	n/a	259
Scallop Fishery	SNE/MA Yellowtail Flounder	GB Yellowtail Flounder
	126	307.5
Midwater Trawl Fishery	GB Haddock	GOM Haddock
	286	9

Table 5—Proposed FY 2012 Total ACLs, sub-ACLs, and ACL sub-components (mt, live weight)

Stock	Total ACL	Groundfish sub-ACL	Preliminary Sector sub-ACL	Preliminary Common Pool sub-ACL	State Waters sub-component	Other sub-component
GB cod	4,861	4,605	4,518	87	51	204
GB haddock	29,260	27,438	27,298	141	307	1,229
GOM haddock	958	912	643	10	15	22
GB yellowtail flounder	547.8	217.7	214.6	3.1	0.0	22.6
SNE/MA yellowtail flounder	936	760	591	168	10	40
CC/GOM yellowtail flounder	1,104	1,046	1,019	27	35	23
American plaice	3,459	3,278	3,207	71	36	145
Witch flounder	1,563	1,448	1,420	28	49	66
GB winter flounder	3,575	3,387	3,365	22	0	188
GOM winter flounder	1,040	715	691	24	272	54
SNE/MA winter flounder	603	303	0	303	175	125
Redfish	8,786	8,325	8,258	66	92	369
White hake	3,465	3,283	3,283	45	73	109
Pollock	14,736	12,612	12,513	99	754	1,370
Northern windowpane flounder	163	129	0	129	2	33
Southern windowpane flounder	381	72	0	72	39	270
Ocean pout	240	214	0	214	3	23
Atlantic	83	36	0	36	43	4

halibut						
Atlantic wolffish	77	73	0	73	1	3

Table 6—Proposed FY 2013 Total ACLs, sub-ACLs, and ACL sub-components (mt, live weight)

Stock	Total ACL	Groundfish sub-ACL	Preliminary Sector sub-ACL	Preliminary Common Pool sub-ACL	State Waters sub-component	Other sub-component
GB yellowtail flounder	547.8	217.7	214.6	3.1	0.0	22.6
GB winter flounder	3,572	3,384	3,362	22	0	188
GOM winter flounder	1,040	715	691	24	272	54
SNE/MA winter flounder	672	337	0	337	195	139
Pollock	14,927	12,791	12,690	101	756	1,380
Northern windowpane flounder	163	129	0	129	2	33
Southern windowpane flounder	381	72	0	72	39	270
Ocean pout	240	214	0	214	3	23
Atlantic halibut	83	36	0	36	43	4
Atlantic wolffish	77	73	0	73	1	3

Table 7—Proposed FY 2014 Total ACLs, sub-ACLs, and ACL sub-components (mt, live weight)

Stock	Total ACL	Groundfish sub-ACL	Preliminary Sector	Preliminary Common	State Waters sub-	Other sub-

			sub-ACL	Pool sub-ACL	component	component
GB winter flounder	3,427	3,247	3,226	21	0	180
GOM winter flounder	1,040	715	691	24	272	54
SNE/MA winter flounder	879	441	0	441	255	182
Pollock	15,308	13,148	13,044	104	760	1,400
Northern windowpane flounder	163	129	0	129	2	33
Southern windowpane flounder	381	72	0	72	39	270
Ocean pout	240	214	0	214	3	23
Atlantic halibut	83	36	0	36	43	4
Atlantic wolffish	77	73	0	73	1	3

5. Annual Specifications for the U.S./Canada Management Area

Eastern GB cod, eastern GB haddock, and GB yellowtail flounder are managed in cooperation with Canada under the U.S./Canada Resource Sharing Understanding, which is an informal agreement between the Northeast Region of NMFS and the Maritimes Region of the Department of Fisheries and Ocean of Canada. The FMP specifies a procedure for setting annual total allowable catches (TACs) for these three stocks in the U.S./Canada Management Area consistent with the Understanding. Each year the TMGC negotiates a shared TAC for each stock based on the most recent stock information and the TMGC harvest strategy. The harvest strategy

for setting catch levels is to maintain a low to neutral (less than 50-percent) risk of exceeding the fishing mortality limit reference (F_{ref} = 0.18, 0.26, and 0.25 for cod, haddock, and yellowtail flounder, respectively), and, when stock conditions are poor, fishing mortality should be further reduced to promote rebuilding. The shared TACs are allocated to the U.S. and Canada based on a formula that considers historical catch percentages and the current resource distribution based on trawl surveys. The U.S./Canada Management Area comprises the entire stock area for GB yellowtail flounder; therefore, the U.S. TAC for this stock is also the U.S. ABC.

In September 2011, the TMGC approved recommendations for 2012 shared TACs for eastern GB cod, eastern GB haddock, and GB yellowtail flounder. The TMGC recommended a shared TAC of 675 mt for eastern GB cod, 16,000 mt for eastern GB haddock, and 900 mt for GB yellowtail flounder. However, at its September 2011 meeting, the Council's SSC recommended an ABC of 1,150 mt for GB yellowtail flounder, which was higher than the TMGC recommendation. On September 28, 2011, the Council reviewed the recommendations of the TMGC and the SSC, and approved the TMGC recommendations for eastern GB cod and eastern GB haddock. The Council also approved an ABC of up to 1,150 mt for GB yellowtail flounder, consistent with the SSC's recommendation. Because this ABC is greater than the shared TAC initially negotiated by the TMGC, the TMGC met by conference call in October 2011 to reconsider its 2012 recommendation for GB yellowtail flounder. The TMGC concluded that 1,150 mt was an appropriate shared TAC for GB yellowtail flounder for 2012 that would balance the risk of exceeding F_{ref} (0.25) and the desire to maintain stock biomass.

The proposed 2012 U.S./Canada TACs are presented in Table 8. For 2012, the annual percentage shares for each country are based on a 10-percent weighting of historical catches and a 90-percent weighting of the current resource distribution. The regulations related to the

Understanding require that any overages of the eastern GB cod, eastern GB haddock, or GB yellowtail flounder TACs available to the U.S. be deducted from the pertinent TAC in the following fishing year. If FY 2011 catch information indicates that the U.S. TAC for any of the shared stocks was exceeded, NMFS will reduce the FY 2012 U.S. TAC for that stock, using procedures consistent with the Administrative Procedure Act.

Table 8—Proposed 2012 U.S./Canada TACS (mt, live weight) and Percentage Shares

TAC	Eastern GB Cod	Eastern GB Haddock	GB Yellowtail Flounder
Total Shared TAC	675	16,000	1,150
U.S. TAC	162 (24%)	6,880 (43%)	564 (49%)
Canada TAC	513 (76%)	9,120 (57%)	586 (51%)

6. Incidental Catch Total Allowable Catches and Allocations to Special Management Programs

Incidental catch TACs are specified for certain stocks of concern (i.e., stocks that are overfished or subject to overfishing) for common pool vessels fishing in the special management programs (i.e., special access programs (SAPs) and the Regular B Days-At-Sea (DAS) Program), in order to limit the catch of these stocks under such programs. The Incidental Catch TAC for each stock is based on the common pool sub-ACL and is distributed to each special management program using a predetermined formula specified in the regulations. Any catch on a trip that ends on a Category B DAS (either Regular or Reserve B DAS) is attributed to the Incidental Catch TAC for the pertinent stock. Catch on a trip that starts under a Category B DAS and then flips to a Category A DAS is attributed to the common pool sub-ACL.

This proposed rule specifies incidental catch TACs for the NE multispecies special management programs for FYs 2012-2014 based on the proposed common pool sub-ACLs listed in Item 4 of this preamble (Table 11, Table 12, Table 13). The FY 2012 sector rosters will not

be finalized until May 1, 2012, for the reasons mentioned earlier in this preamble. Therefore, the common pool sub-ACL may change due to changes to the FY 2012 sector rosters. Updated incidental catch TACs will be published in the Framework 47 final rule, or a subsequent adjustment rule, if necessary, based on the final sector rosters as of May 1, 2012.

Table 11—Proposed Common Pool Incidental Catch TACs for FY 2012-2014 (mt, live weight)

Stock	Percentage of Common Pool sub-ACL	2012	2013	2014
GB cod	2	1.7	n/a	n/a
GB yellowtail flounder	2	0.1	n/a	n/a
SNE/MA yellowtail flounder	1	1.7	n/a	n/a
CC/GOM yellowtail flounder	1	0.3	n/a	n/a
Plaice	5	3.5	n/a	n/a
Witch Flounder	5	1.4	n/a	n/a
GB winter flounder	2	0.4	0.4	0.4
SNE/MA winter flounder	1	3.0	3.4	4.4
White Hake	2	0.9	n/a	n/a

Table 12—Percentage of Incidental Catch TACs Distributed to Each Special Management Program

Stock	Regular B DAS Program	Closed Area I Hook Gear Haddock SAP	Eastern US/CA Haddock SAP
GB cod	50%	16%	34%
GB yellowtail flounder	50%	n/a	50%
SNE/MA yellowtail flounder	100%	n/a	n/a
CC/GOM yellowtail flounder	100%	n/a	n/a
Plaice	100%	n/a	n/a
Witch Flounder	100%	n/a	n/a
GB winter flounder	50%	n/a	50%
SNE/MA winter flounder	100%	n/a	n/a
White Hake	100%	n/a	n/a

Table 13—Incidental Catch TACs for Each Special Management Program for FY 2012 – 2014 (mt, live weight)

Stock	Regular B DAS Program			Closed Area I Hook Gear Haddock SAP			Eastern U.S./Canada Haddock SAP		
	2012	2013	2014	2012	2013	2014	2012	2013	2014
GB cod	0.9	n/a	n/a	0.3	0.0	0.0	0.6	0.0	0.0
GB yellowtail flounder	0.03	n/a	n/a	n/a	n/a	n/a	0.03	n/a	n/a
SNE/MA yellowtail flounder	1.7	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
CC/GOM yellowtail flounder	0.3	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Plaice	3.5	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Witch Flounder	1.4	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
GB winter flounder	0.2	0.2	0.2	n/a	n/a	n/a	0.2	0.2	0.2
SNE/MA winter flounder	3.0	3.4	4.4	n/a	n/a	n/a	n/a	n/a	n/a
White hake	0.9	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

7. Common Pool Trimester Total Allowable Catches

Beginning in FY 2012, the common pool sub-ACL for each stock will be divided into trimester TACs at the start of the fishing year. The percentage of each sub-ACL allocated to each trimester was determined in Amendment 16. The current regulations require that, with the exception of both stocks of windowpane flounder, ocean pout, and Atlantic halibut, once 90 percent of the trimester TAC is projected to be caught, the area where 90 percent of the catch for the pertinent stock occurred will be closed. The area closure will apply to all common pool vessels fishing with gear capable of catching the pertinent stock. The trimester TAC areas for each stock, as well as the applicable gear types are defined at § 648.82(n)(2). Any overages or underages of the trimester TAC in Trimester 1 or Trimester 2 will be applied to the next trimester (e.g., any remaining portion of the Trimester 1 TAC will be added to the Trimester 2

TAC). Any overage of the total sub-ACL will be deducted from the following fishing year's common pool sub-ACL for that stock. Uncaught portions of the Trimester 3 TAC will not be carried over into the following fishing year.

Based on the ACLs and sub-ACLs proposed in Framework 47, this rule also proposes trimester TACs for FYs 2012-2014 for the common pool (Table 14 and Table 15). As described earlier, vessels have until April 30, 2012, to drop out of a sector, and common pool vessels have been provided additional flexibility to join a sector through April 30, 2012. Sector rosters for each fishing year are finalized on May 1. The ACLs and sub-ACLs proposed in this rule are based on current FY 2012 sector rosters as of December 1, 2011. Any changes to the sector rosters will also change the proposed sector and common pool sub-ACLs, and as a result, the trimester TACs proposed in this rule may also change. Based on the final sector rosters, NMFS will publish a rule in early May 2012, if necessary, to modify these sub-ACLs, and notify the public of these changes. As described in Item 9 of this preamble, Framework 47 proposes to revise the accountability measures for the groundfish fishery for the six stocks not currently allocated to sectors. If approved, these proposed measures would remove the common pool trimester TAC requirement for SNE/MA winter flounder, both stocks of windowpane flounder, ocean pout, Atlantic halibut, and Atlantic wolffish. Proposed FY 2012-2014 trimester TACs are presented in Table 15 for each stock based on the current regulations.

Table 14—Percentage of Common Pool sub-ACL Distributed to Each Trimester

Stock	Percentage of Common Pool sub-ACL		
	Trimester 1	Trimester 2	Trimester 3
GB Cod	25	37	38
GOM Cod	27	36	37
GB Haddock	27	33	40
GOM Haddock	27	26	47
GB Yellowtail Flounder	19	30	52

SNE/MA Yellowtail Flounder	21	37	42
CC/GOM Yellowtail Flounder	35	35	30
American Plaice	24	36	40
Witch Flounder	27	31	42
GB Winter Flounder	8	24	69
GOM Winter Flounder	37	38	25
SNE/MA Winter Flounder	36	50	14
Redfish	25	31	44
White Hake	38	31	31
Pollock	28	35	37
N. Windowpane Flounder	33	33	34
S. Windowpane Flounder	33	33	34
Ocean Pout	33	33	34
Atlantic Halibut	33	33	34
Atlantic Wolffish	75	13	12

Table 15—Proposed FY 2012-2014 Common Pool Trimester TACs

Stock	2012			2013			2014		
	Tri 1	Tri 2	Tri 3	Tri 1	Tri 2	Tri 3	Tri 1	Tri 2	Tri 3
GB Cod	21.8	32.2	33.1	n/a	n/a	n/a	n/a	n/a	n/a
GOM Cod	0.0	0.0	0.0	n/a	n/a	n/a	n/a	n/a	n/a
GB Haddock	38.0	46.4	56.2	n/a	n/a	n/a	n/a	n/a	n/a
GOM Haddock	2.6	2.5	4.6	n/a	n/a	n/a	n/a	n/a	n/a
GB Yellowtail Flounder	0.6	0.9	1.6	n/a	n/a	n/a	n/a	n/a	n/a
SNE/MA Yellowtail Flounder	32.0	50.5	87.6	n/a	n/a	n/a	n/a	n/a	n/a
CC/GOM Yellowtail Flounder	9.5	9.5	8.1	n/a	n/a	n/a	n/a	n/a	n/a
American Plaice	17.0	25.5	28.3	n/a	n/a	n/a	n/a	n/a	n/a
Witch Flounder	7.6	8.8	11.9	n/a	n/a	n/a	n/a	n/a	n/a
GB Winter Flounder	1.8	5.3	15.2	1.8	5.3	15.2	1.7	5.1	14.5
GOM Winter Flounder	8.8	9.0	5.9	8.8	9.0	5.9	8.8	9.0	5.9
SNE/MA Winter	109.0	151.4	42.4	121.3	168.5	47.2	158.8	220.5	61.7

Flounder									
Redfish	16.6	20.6	29.2	n/a	n/a	n/a	n/a	n/a	n/a
White Hake	17.2	14.0	14.0	n/a	n/a	n/a	n/a	n/a	n/a
Pollock	27.8	34.8	36.8	28.2	35.3	37.3	29.0	36.3	38.3
N. Windowpane Flounder	42.5	42.5	43.8	42.5	42.5	43.8	42.5	42.5	43.8
S. Windowpane Flounder	23.7	23.7	24.4	23.7	23.7	24.4	23.7	23.7	24.4
Ocean Pout	70.7	70.7	72.9	70.7	70.7	72.9	70.7	70.7	72.9
Atlantic Halibut	12.0	12.0	12.4	12.0	12.0	12.4	12.0	12.0	12.4
Atlantic Wolffish	55.0	9.5	8.8	55.0	9.5	8.8	55.0	9.5	8.8

*Tri 1 = Trimester 1; Tri 2 = Trimester 2; Tri 3 = Trimester 3

8. Common Pool Restricted Gear Areas

Amendment 16 implemented two restricted gear areas (RGAs) for common pool vessels beginning in FY 2010: The Western GB Multispecies RGA and the SNE Multispecies RGA. These RGAs were developed to help meet the mortality objectives for the common pool fishery and primarily reduce the catch of flatfish species by common pool vessels. The current regulations require common pool vessels fishing under a NE multispecies DAS that fish any part of a trip in these RGAs to use a haddock separator trawl, a Ruhle trawl, a rope trawl, longline/tub trawls, handgear, or sink gillnets. Tie-down gillnets are also allowed to be used in these areas, or stowed on board, as long as the mesh is greater than or equal to 10 inches (25.4 cm). Common pool vessels fishing in either of these RGAs are required to declare into the area via the Vessel Monitoring System, or obtain a letter of authorization from the RA to fish in these RGAs.

Framework 47 proposes to remove the Western GB and SNE Multispecies RGAs based on a determination that there are sufficient fishing mortality controls for common pool vessels to limit catch within the pertinent catch limits. In addition, Framework 47 also proposes to modify AMs for several groundfish stocks, which, if approved, would include restricted gear areas for

common pool and sector vessels if total catch limits are exceeded during the fishing year. Removing the Western GB and SNE Multispecies RGAs would simplify the regulations and avoid confusion between the proposed AM areas and the existing common pool RGAs. In addition, removing the Western GB and SNE Multispecies RGAs would facilitate fishing by common pool vessels without risk of exceeding common pool catch limits.

9. Accountability Measures

AMs are required to prevent overfishing and ensure accountability in the fishery. Proactive AMs are intended to prevent ACLs from being exceeded and reactive AMs are meant to correct or mitigate overages if they occur. Amendment 16 implemented AMs for all of the groundfish stocks. For the six stocks not currently allocated to sectors (SNE/MA winter flounder, northern and southern windowpane flounder, ocean pout, Atlantic wolffish, and Atlantic halibut), the current AM is triggered if catch by sector and common pool vessels exceeds the common pool catch limit. For FYs 2010 and 2011, if the common pool sub-ACL is exceeded, a differential DAS rate based on the proportion of the common pool sub-ACL caught is applied in the differential DAS area for the pertinent stock. The differential DAS rate only applies to common pool vessels fishing under a NE multispecies DAS. Beginning in FY 2012, the common pool sub-ACL will be divided into trimester TACs. For Atlantic wolffish and SNE/MA winter flounder, if the common pool catch exceeds 90 percent of the trimester TAC, the area that accounts for 90 percent of the catch would be closed to common pool vessels fishing with certain gear types for the remainder of the trimester. Any overages of the common pool sub-ACL will be deducted from the sub-ACL for the pertinent stock in the following fishing year.

Upon approval of Amendment 16, NMFS notified the Council that it was concerned with the AMs developed for stocks not allocated to sectors because they lacked sector-specific AMs. NMFS recommended that the Council develop appropriate AMs for these stocks in a future action. As a result, Framework 47 proposes to modify the AMs for these stocks for common pool and sector vessels. During the development of Framework 47, there was ongoing litigation on Amendment 16. Environmental groups challenged Amendment 16 partially due to the lack of sector-specific AMs for stocks not allocated to sectors. On December 20, 2011, the U.S. District Court for the District of Columbia upheld all challenged measures in Amendment 16, except for the AMs for those stocks not allocated to sectors (SNE/MA winter flounder, northern windowpane flounder, southern windowpane flounder, ocean pout, Atlantic halibut, and Atlantic wolffish). In its only adverse finding, the Court found that Amendment 16 lacked adequate reactive AMs (i.e., AMs that are implemented if an ACL is exceeded) for these stocks and remanded the issue to NMFS and the Council for further action. NMFS is requesting public comment on the adequacy of the proposed AMs in this action in light of the recent litigation.

Ocean Pout and Windowpane Flounder, and Atlantic Halibut

Framework 47 proposes area-based AMs for ocean pout and both stocks of windowpane flounder, and a zero-possession AM for Atlantic halibut for sector and common pool vessels that would be triggered if the total ACL is exceeded. During year 2, NMFS would evaluate catch for year 1, and, if the total ACL is exceeded, the AM would be implemented in year 3. For example, if the total ACL for ocean pout is exceeded in FY 2012, NMFS would implement the applicable AM for ocean pout in FY 2014. To determine if the total ACL is exceeded, NMFS would include catch by the groundfish fishery as well as catch by sub-components of the fishery (e.g., state waters and non-groundfish fisheries). The implementation of AMs in year 3 would allow a

complete and accurate evaluation of catch for year 1. Catch of these stocks occurs in state waters and non-groundfish fisheries, and in-season catch data is not available for these fisheries. Due to the current data availability, the proposed timing of these AMs would allow for accurate catch accounting, and will ensure an AM is not inadvertently implemented. Improved data availability in the future may allow for modification of the timing of these AMs.

Currently, ocean pout, northern and southern windowpane flounder, and Atlantic halibut are not allocated to sectors, and a sub-ACL is only specified for the common pool fishery. Catch by common pool and sector vessels is applied to the common pool sub-ACL for these stocks. However, if a sub-ACL is specified in the future for other fisheries, and AMs are developed for these fisheries, the AMs for the groundfish fishery or any other fisheries would only be triggered if the total ACL for the stock is exceeded and the fishery's sub-ACL was also exceeded, including its share of any overage caused by other sub-components of the fishery. Since these proposed AMs are meant to restrict catch by common pool and sector vessels, sectors would not be able to request an exemption from these AM provisions.

If the total ACL is exceeded for ocean pout, northern windowpane flounder, or southern windowpane flounder in year 1, gear restrictions would apply in the AM areas developed for each stock for both sector and common pool vessels in year 3. For all three stocks, trawl vessels would be required to use selective trawl gear. Approved gears include the haddock separator trawl, the Ruhle trawl (see Item 14 for description of Ruhle trawl that includes the mid-sized eliminator (or Ruhle) trawl in the definition of this gear type), the rope trawl, and any other gears authorized by the Council in a management action or approved for use consistent with the process defined at § 648.85(b)(6). There would be no restrictions on longline or gillnet gear because it was determined that these gear types comprise a small amount of the total catch for

these stocks. If the amount of the total ACL overage is between the management uncertainty buffer and up to 20 percent, the small AM area would be triggered for the pertinent stock. Currently, the management uncertainty buffer is 5 percent; however, this buffer could be modified in the future. If the amount of the overage is more than 20 percent, the large AM area would be triggered. The applicable GB AM area would be implemented if the total ACL for northern windowpane is exceeded, and the applicable SNE AM area would be implemented if the total ACL for southern windowpane is exceeded. Both the GB and SNE AM areas would be implemented if the total ACL for ocean pout is exceeded. Sectors would be prohibited from requesting an exemption from these AM provisions.

Currently, common pool and sector vessels have a one-fish landing limit for Atlantic halibut. If the total ACL for Atlantic halibut is exceeded in year 1, landing of Atlantic halibut would be prohibited by common pool and sector vessels in year 3. This AM is expected to keep mortality of Atlantic halibut below the target levels because a portion of the discarded fish would be expected to survive.

SNE/MA Winter Flounder and Atlantic Wolffish

Currently, commercial and recreational vessels are prohibited from possessing SNE/MA winter flounder and Atlantic wolffish. Framework 47 proposes to adopt the current possession prohibition as a proactive AM for SNE/MA winter flounder and Atlantic wolffish for both commercial and recreational vessels. Under these proposed measures, the current trimester TAC AM for SNE/MA winter flounder and Atlantic wolffish that applies to common pool vessels would be removed. Based on FY 2010 catch information and partial FY 2011 catch information, the prohibition on possession has adequately kept the catch of this stock within the mortality targets.

10. Removal of Cap on Yellowtail Flounder Catch in Scallop Access Areas

In 2004, Framework 39 to the NE Multispecies FMP and Framework 16 to the Atlantic Sea Scallop FMP implemented a cap on the amount of yellowtail flounder that could be caught in the Nantucket Lightship, Closed Area I, and Closed Area II Sea Scallop Access Areas. This measure was implemented before ACL and AM provisions were added to the NE Multispecies and Atlantic Sea Scallop FMPs in order to ensure that yellowtail flounder catches did not exceed the target TACs for yellowtail flounder or exceed the U.S TAC for GB yellowtail flounder. Under the current regulations, scallop vessels are allowed to catch up to 10 percent of the total SNE/MA yellowtail flounder ACL from the Nantucket Lightship Sea Scallop Access Area, and up to 10 percent combined of the U.S. TAC of GB yellowtail flounder from the Closed Area I and Closed Area II Sea Scallop Access Areas. Once the 10-percent access area cap is caught, the pertinent access area is closed to scallop vessels for the remainder of the scallop fishing year.

Framework 47 proposes to remove the 10-percent access area cap for the Nantucket Lightship, Closed Area I, and Closed Area II Sea Scallop Access Areas. The scallop fishery would still be subject to its GB and SNE/MA yellowtail flounder sub-ACLs, but there would be no limit on how much of the sub-ACLs could be caught in the scallop access areas. This proposed measure would remove an unnecessary provision now that the fishery is managed under ACLs. ACLs limit the amount of yellowtail flounder that can be caught by the scallop fishery, so a catch cap for the access areas in no longer necessary to meet fishing mortality objectives.

11. Implementation of Scallop Fishery Accountability Measure

Each year a portion of the GB and SNE/MA yellowtail flounder ABC is allocated to the scallop fishery as a sub-ACL. Currently, if the scallop fishery exceeds its sub-ACL for either of

these stocks by 1 percent or more in the scallop fishing year, pre-identified statistical areas with high catch rates of yellowtail flounder will close to limited access scallop vessels. The closure would be in place for consecutive months beginning at the start of the subsequent scallop fishing year, and the duration of the closure would depend on the magnitude of the overage. The proposed rule for Framework 23 to the Atlantic Sea Scallop FMP (Framework 23) was published in the Federal Register on January 3, 2012 (77 FR 52). Framework 23 proposes to revise the yellowtail flounder seasonal closure AM schedule for scallop vessels to ensure that the closures would occur during the months with the highest yellowtail flounder catch rates. If approved, Framework 23 would likely become effective in April 2012.

Framework 47 proposes to modify when the AM for the scallop fishery would be triggered. If the scallop fishery exceeds it sub-ACL for any groundfish stock, and the total ACL for that stock is also exceeded, the corresponding scallop seasonal closure would be implemented according to the seasonal closure AM schedule. In addition, if the scallop fishery exceeds its sub-ACL by 50 percent or more for any groundfish stock, the scallop seasonal closure AM would be implemented according to the schedule. When evaluating whether the total ACL has been exceeded for a groundfish stock for the purposes of triggering the scallop fishery AM, NMFS would add the maximum carryover available to the groundfish fishery to the estimate of total catch. Currently, the scallop fishery is allocated a sub-ACL for GB and SNE/MA yellowtail flounder; however, this measure would also apply to the scallop fishery AM for any additional groundfish stock that is allocated to the scallop fishery in a future action. If approved, this measure would apply retroactively to the 2011 scallop fishing year.

The scallop fishing year ends on February 28, and the groundfish fishing year ends on April 30. Given the differences in fishing years, complete catch information for GB and

SNE/MA yellowtail flounder would not be available until sometime after April 30. In addition, inseason catch information is not available for groundfish ACL sub-components, such as state waters catch. As a result, when evaluating the total catch of GB and SNE/MA yellowtail flounder for the purposes of triggering the scallop fishery AM, NMFS would primarily rely on partial catch information to project total fishing year catch of these two stocks from state waters and non-groundfish fisheries. NMFS would also use partial fishing year data to estimate GB and SNE/MA yellowtail flounder catch by the groundfish fishery and would project catch of these two stocks by groundfish vessels for the remainder of the groundfish fishing year. Although this proposed measure would allow more flexibility for the scallop fishery, there would be uncertainty associated with the catch projections used to determine whether the scallop fishery AM should be triggered. NMFS is seeking public comment on the use of these catch estimates for the purposes of triggering the scallop fishery AM.

This proposed measure would allow more flexibility in the fishery. Currently, the yellowtail flounder allocation to the scallop fishery is based on an estimate of the yellowtail flounder expected to be caught with the projected scallop harvest for the fishing year. Because there is uncertainty in estimating the projected yellowtail flounder catch in the scallop fishery, the proposed revision to the AM trigger would account for projection uncertainty without compromising the mortality objectives for GB and SNE/MA yellowtail flounder. In addition, triggering the AM when the scallop fishery exceeds its allocation by 50 percent or more will still ensure accountability in the fishery. The Council did not specifically include how to reference this measure in the scallop regulations in Framework 47; therefore, these references are proposed by NMFS under the authority of Section 305(d) of the Magnuson-Stevens Act.

12. Inseason Re-estimation of Scallop Fishery GB Yellowtail Flounder sub-ACL

The allocation of the GB yellowtail flounder sub-ACL to the scallop fishery is based on an estimate of the amount of GB yellowtail flounder the scallop fishery is expected to catch, which is determined by the scallop quota for the fishing year. The estimate is based on past fishing activity and projected changes in the stock size of GB yellowtail flounder and scallops. There are no restrictions on how much GB yellowtail flounder can be allocated to the scallop fishery. In FY 2010, the scallop fishery was allocated 100 percent of the estimated GB yellowtail flounder catch associated with the projected scallop catch. In FY 2011 and FY 2012, the scallop fishery was allocated 90 percent of the projected GB yellowtail flounder catch. Because there is uncertainty in the initial estimates of projected GB yellowtail flounder catch, there is a possibility that the initial allocation to the scallop fishery could be too low, which could cause the scallop sub-ACL to be exceeded, or that the initial allocation to the scallop fishery could be too high, which could reduce GB yellowtail flounder yield.

Due to the uncertainty in the initial estimates of projected GB yellowtail flounder and scallop catch, and to prevent the loss of available yield of GB yellowtail flounder, Framework 47 proposes to create a mechanism to re-estimate the expected GB yellowtail flounder catch by the scallop fishery by January 15 of each fishing year. If the re-estimate of projected GB yellowtail flounder indicates that the scallop fishery will catch less than 90 percent of its sub-ACL, NMFS would reduce the scallop fishery sub-ACL to the amount expected to be caught and increase the groundfish fishery sub-ACL for GB yellowtail flounder by the difference between the original estimate and the revised estimate. The increase to the groundfish fishery sub-ACL would be distributed to sectors and the common pool. NMFS would not make any changes to the GB yellowtail flounder sub-ACL for the scallop fishery if the revised estimate indicates that the scallop fishery will catch 90 percent or more of its sub-ACL. NMFS would notify the public of

any changes to the GB yellowtail flounder sub-ACLs consistent with the Administrative Procedure Act.

In addition, due to uncertainty associated with the revised estimate of expected GB yellowtail flounder catch, NMFS would have the authority to adjust the size of the change made to the sub-ACLs for the scallop and groundfish fisheries. Based on the amount of the uncertainty, NMFS could revise the sub-ACLs by any amount between the initial estimate of expected GB yellowtail flounder catch by the scallop fishery and the revised estimate. Implementation of this measure would be delayed until data availability for projecting GB yellowtail flounder catch is sufficient to re-estimate the GB yellowtail flounder sub-ACL for the scallop fishery mid-season. Consideration of uncertainty and delay in implementation of this measure would avoid errors in the re-estimation of the GB yellowtail flounder sub-ACLs if the projected scallop fishery catch is underestimated. Errors in the re-estimation of the scallop fishery sub-ACL could cause the scallop fishery to exceed its sub-ACL if projected catch is underestimated. In addition, if the groundfish fishery catches the additional GB yellowtail flounder allocated mid-fishing year, the U.S. TAC for GB yellowtail flounder could be exceeded.

This proposed measure will prevent any loss of GB yellowtail flounder yield that may occur if the initial catch estimate of this stock by the scallop fishery is too high. Re-estimation of the expected GB yellowtail flounder catch by the scallop fishery mid-season would allow additional GB yellowtail flounder yield by the commercial groundfish fishery and would help achieve optimum yield for this stock.

13. Annual Measures for FY 2012 Under Regional Administrator Authority

The FMP provides authority for the RA to implement certain types of management measures for the common pool fishery, the U.S./Canada Management Area, and Special

Management Programs on an annual basis, or as needed. This proposed rule includes a description of the management measures being considered by the RA for FY 2012 in order to provide an opportunity for the public to comment on whether the proposed measures are appropriate. These measures are not part of Framework 47, and were not specifically proposed by the Council, but are proposed in conjunction with Framework 47 for expediency purposes and because they relate to the proposed Framework 47 measures (i.e., ACLs). The RA may implement different measures from the FY 2012 measures proposed in this action if current information indicates such measures are necessary to meet the requirements of the FMP. The measures implemented through RA authority for FY 2012 will be implemented through the Framework 47 final rule, or, if necessary, through a separate final rule.

The RA has the authority to modify common pool trip limits in order to prevent exceeding the common pool sub-ACLs and facilitate harvest so total catch approaches the common pool sub-ACLs. Table 16 provides a summary of the default trip limits that would take effect in FY 2012 if the RA takes no action, the common pool trip limits for FY 2011, and the proposed trip limits that would be in effect for the start of FY 2012. Proposed trip limits for FY 2012 were developed after considering changes to the FY 2012 common pool sub-ACLs and sector rosters, trimester TACs for FY 2012, catch rates of each stock during FY 2011, bycatch, the potential for differential DAS counting in FY 2012, and other available information. For stocks that include a range of potential trip limits in Table 16, a final trip limit would be specified in the final rule implementing these measures based upon public comment. NMFS is requesting public input on common pool trip limits for FY 2012.

Table 16—Default, FY 2011, and Proposed FY 2012 Trip Limits for the Common Pool.

Stock	Default Limit in Regulations	FY 2011 Trip Limit	Proposed FY 2012 Trip Limit

GOM cod	800 lb (362.9 kg) per DAS, up to 4,000 lb (1,818.2 kg) per trip	500 lb (226.8 kg) per DAS, up to 2,000 lb (907.2 kg) per trip; reduced to 350 lb (158.8 kg) per DAS up to 1,000 lb (453.6 kg) per trip	500 lb (226.8 kg) – 800 lb (362.9 kg) per DAS, up to 2,000 lb (907.2 kg) per trip
GB cod	2,000 lb (907.2 kg) per DAS, up to 20,000 lb (9,072 kg) per trip	3,000 lb (1,360.8 kg) per DAS, up to 30,000 lb (13,607.8 kg) per trip; reduced to 300 lb (136.1 kg) per DAS, up to 600 lb (272.2 kg) per trip	2,000 lb (907.2 kg) per DAS, up to 20,000 lb (9,072 kg) per trip
GOM haddock	unrestricted	1,000 lb (453.6 kg) per trip	750 lb (340.2 kg) - 1,000 lb (453.6 kg) per trip
GB haddock	unrestricted	10,000 lb (4,535.9 kg) per trip	7,500 lb (3,402 kg) - 10,000 lb (4,535.9 kg) per trip
GOM winter flounder	unrestricted	250 lb (113.4 kg) per trip	250 lb (113.4 kg) per trip
GB winter flounder	unrestricted	1,000 lb (453.6 kg) per trip	1,000 lb (453.6 kg) per trip
CC/GOM yellowtail flounder	250 lb (113.4 kg) per DAS, up to 1,500 (680.4 kg) per trip	500 lb (226.8 kg) per DAS, up to 2,000 (907.2 kg) per trip	250 lb (113.4 kg) per DAS, up to 1,500 (680.4 kg) per trip
GB yellowtail flounder	unrestricted	1,500 (680.4 kg) per trip	1,000 (453.6 kg) – 1,500 (680.4 kg) per trip
SNE/MA yellowtail flounder	250 lb (113.4 kg) per DAS, up to 1,500 (680.4 kg) per trip	500 lb (226.8 kg), up to 2,000 (907.2 kg) per trip	500 lb (226.8 kg), up to 2,000 (907.2 kg) per trip – 1,500 lb (680.4 kg), up to 4,500 (2,041.1 kg) per trip
American plaice	unrestricted	unrestricted	Unrestricted
Pollock	1,000 lb (450 kg) per DAS; up to 10,000 lb (4,500 kg) per trip	unrestricted	Unrestricted
Witch flounder	unrestricted	250 lb (113.4 kg) per trip	250 lb (113.4 kg) per trip
White hake	500 lb (226.8 kg) per DAS; up to 2,000 lb (907.2 kg) per trip	1,500 lb (680.4 kg) per trip	1,000 lb (453.6 kg) – 1,500 lb (680.4 kg) per trip
Redfish	unrestricted	unrestricted	Unrestricted

The RA has the authority to determine the allocation of the total number of trips into the Closed Area II Yellowtail Flounder/Haddock SAP based on several criteria, including the GB yellowtail flounder TAC and the amount of GB yellowtail flounder caught outside of the SAP. In 2005, Framework 40B (June 1, 2005; 70 FR 31323) implemented a provision that no trips should be allocated to the Closed Area II Yellowtail Flounder/Haddock SAP if the available GB yellowtail flounder catch is insufficient to support at least 150 trips with a 15,000-lb (6,804-kg) trip limit (i.e., 150 trips of 15,000 lb (6,804 kg)/trip, or 2,250,000 lb (1,020,600 kg). This calculation accounts for the projected catch from the area outside the SAP. Based on the groundfish sub-ACL of 479,946 lb (217,700 kg), there is insufficient GB yellowtail flounder to allocate any trips to the SAP, even if the projected catch from outside the SAP area is zero. Therefore, based on existing authority, this action proposes to allocate zero trips to the Closed Area II Yellowtail Flounder/Haddock SAP for FY 2012. Vessels could still fish in this SAP in FY 2012 using a haddock separator trawl, a Ruhle trawl, or hook gear. Vessels would not be allowed to fish in this SAP using flounder nets.

14. Mid-Size Ruhle Trawl

The Council requested that NMFS implement a smaller-scale version of the Ruhle trawl (i.e., the mid-size Eliminator Trawl), which is a trawl designed with large meshes in the forward part of the net to reduce catch of cod and flatfish. Specifically, the Council requested that the mid-size Eliminator Trawl should be: 1) Available for use by both sector and non-sector vessels in the Eastern U.S./Canada Haddock SAP and Regular B DAS Program; and 2) assigned a separate gear code but should not be assigned a separate stratum for the purpose of discard information. This action proposes to broaden the current definition of the Ruhle Trawl to include the mid-size Eliminator trawl. Expanding this definition would increase fishing opportunity for

smaller vessels by allowing them to utilize this smaller-scale trawl, and therefore, have access to the Haddock SAP, as well as the B DAS program. In addition, vessels would be able to operate under the Ruhle trawl gear code, which would result in reduced discard rates for certain species, particularly depleted stocks that may have constraining catch limits.

Vessels fishing in the Regular B DAS Program or the Haddock SAP must use approved trawl gear that has been determined to reduce the catch of NE multispecies stocks of concern. The RA may approve additional gears for use in the Regular B DAS Program and the Eastern U.S./Canada Haddock SAP if a gear meets gear performance standards defined at § 648.85(b)(6)(iv)(J)(2). These gear performance standards were developed to allow the harvest of healthy stocks (e.g., GB haddock) while avoiding the capture of stocks of concern (e.g., GB cod and GB yellowtail flounder). The full-size Eliminator trawl (i.e., Ruhle trawl) was tested in 2006. This experiment demonstrated that it effectively harvested the target species haddock while reducing catches of cod and other stocks of concern. NMFS, upon the request of the Council, approved the Ruhle trawl for use in the B DAS Program and Haddock SAP on July 14, 2008 (73 FR 40186). The current definition of the Ruhle trawl is specific to the experimental net, which was designed for relatively large vessels.

The University of Rhode Island (URI) conducted a follow-on study that tested two smaller versions of the Ruhle trawl that could be used by smaller vessels (small-size Eliminator trawl and mid-size Eliminator trawl) to determine if the catch performance of the smaller trawls is similar to that of the full-size trawl. In January 2010, URI submitted a final report titled ‘‘Exploring Bycatch Reduction in the Haddock Fishery Through the Use of the Eliminator Trawl (Ruhle Trawl) with Fishing Vessels in the 250 to 550 HP Range.’’ Although the small-size Eliminator did not attain the desired catch performance results, the mid-size Eliminator had catch

performance characteristics very similar to those of the Ruhle trawl. Following a successful peer review, the Council determined that the mid-size Eliminator trawl effectively meets the pertinent gear performance standards and requested that NMFS approve the use of the mid-size Eliminator trawl for use by sector and non-sector vessels in the B DAS Program and Haddock SAP.

Vessels participating in the NE multispecies common pool and sector management programs are subject to catch limits, which include discarded catch. Vessel Trip Report (VTR) gear codes, in conjunction with stock area fished and sector, are used to establish discard strata for each NE multispecies stock to ensure these catch limits are not exceeded. Each discard stratum has a particular discard rate associated with each NE multispecies stock based on of Northeast Fisheries Observer Program (NEFOP) and at-sea-monitor (ASM) data. There are currently three commonly used VTR trawl gear codes for groundfish: Bottom fish; haddock separator; and Ruhle trawl. Because the haddock separator trawl and the Ruhle trawl were designed to fish more selectively than a regular bottom fish trawl, trips using these two gear types generally have reduced catch for certain stocks of NE multispecies, particularly flatfish and cod, resulting in a lower discard rate for these species. Due to the similar catch performance characteristics of the mid-size Eliminator and Ruhle trawl, the Council has requested that data from both be pooled for the purpose of assigning discard rates and establishing discard strata.

The Council also requested that NMFS create a new VTR gear code for the mid-size Eliminator Trawl as a means to monitor the catch performance of this net design in the fishery. However, creating a new gear code would not achieve the Council's objective. A mid-size Eliminator trawl could range in size from the experimental net up to the size of the Ruhle trawl. Consequently, a vessel may correctly choose the mid-size Eliminator Trawl VTR gear code, but the net size could vary considerably from the experimental net size, which precludes the ability

to use a VTR gear code to monitor how the experimental net performs when adopted in the fishery. Instead, NMFS proposes to use foot-rope length and discard data obtained by trips that are accompanied by a NEFOP assigned observer or ASM. Data from observed or monitored vessels that are using a mid-size Eliminator with a sweep that is comparable to the experimental net sweep of 33m (109 ft) would be used to evaluate how the experimental gear is performing in practice.

NMFS proposes to broaden the definition of the Ruhle Trawl such that, if implemented as proposed, the mid-size Eliminator would meet the definition of a Ruhle trawl. Upon consultation with NMFS fishing gear scientists and the URI Eliminator trawl research team, this action proposes to adjust the current definition of the Ruhle trawl to include the smaller dimensions of the mid-size Eliminator trawl, and only include the primary design features of the net design in the gear definition. Currently, a Ruhle trawl must have a minimum fishing circle of at least 398 ft (121.4 m), meet mesh-size specifications in the forward portion of the net, be rigged with a specific sweep configuration, have four seams, and have a minimum kite surface area. This action would revise the current Ruhle trawl definition by making the following modifications: Replace the minimum fishing circle requirement with a more concise and enforceable measure using minimum number of meshes at the wide end of the first bottom belly; adjust the mesh configuration in the forward part of the net and the minimum kite area requirements to that of the mid-size Eliminator; and remove the sweep configuration requirements. The sweep requirements have been removed from the definition as this component of the gear is largely based on bottom composition and preference, and is not the primary bycatch reduction device, which is the large meshes located in the forward part of the net. The minimum mesh sizes and

minimum kite area were reduced to enable the mid-size Eliminator to meet the Ruhle trawl definition.

15. Monitoring of Fillets, Fish Parts, and Fish Landed for At-Home Consumption

This action proposes to remove the 3:1 counting method for the purposes of counting fillets and fish-parts landed for at-home consumption against the pertinent ACLs. NMFS published an interim final rule on July 19, 2011, (76 FR 42577), which changed the way that fillets, fish parts, and fish landed for at-home consumption are counted against ACLs. That rule specified that all catch by a sector vessel, including fillets retained by crew for home consumption, count against the sector's ACE for that stock; and all catch by a common pool vessel, including fillets retained by crew for home consumption, count towards the vessel's possession limit for that stock and the common pool sub-ACL for that stock. The interim final rule required that fillets and parts of fish (as referenced at § 648.83(b)) be counted at a rate of 3:1 both for compliance purposes with common pool possession limits and for monitoring ACLs. The regulations were modified to require the weight of fillets or parts of fish to be multiplied by 3 and added to the weight of whole fish for monitoring purposes to ensure all fish landed for at-home consumption is attributed to the appropriate ACL.

Since publishing the interim final rule, NMFS has developed a more precise method to estimate the weight of fillets or parts of fish for monitoring ACLs. Instead of a universal 3:1 multiplier, the new method uses species-specific conversion factors. The species-specific conversion factors used for regulated species currently allowed to be landed are presented in Table 17. These conversion factors, as well as the conversion factors for other groundfish species and species outside of the NE Multispecies FMP, are available from NMFS (see ADDRESSES). Fillets and fish parts landed would be multiplied by the species-specific

multiplier for monitoring sector ACEs and common pool sub-ACLs. This is consistent with the FMP requirement that all catch by sector and common pool vessels be accounted for, and will provide more accurate information to be used in preventing overharvest of sector ACEs and common pool sub-ACLs. The 3:1 counting rate for fillets and parts of fish would continue to be used to determine compliance with possession limits for the common pool.

Table 17 – Groundfish Species Conversion Factors for Fillets and Parts of Fish Landed for At-Home Consumption

Species	Conversion Factor
Atlantic cod	1.169
Haddock	1.139
Yellowtail Flounder	1
American Plaice	1
Witch Flounder	1
Winter Flounder	1
Redfish	1
White Hake	1.34
Pollock	1.133
Atlantic Halibut	1.142

16. Charter/Party Vessel Closed Area Letter of Authorization

Framework Adjustment 33 to the NE Multispecies FMP (Framework 33) provided an exemption to charter/party and recreational vessels to fish in the GOM Rolling Closure Areas, the Western GOM Closure Area, Cashes Ledge Closure Area, and the Nantucket Lightship Closed Area, provided the vessel is issued a letter of authorization (LOA) from the Regional Administrator. The current regulations specify that a vessel issued this LOA is not allowed to sell any fish, with the exception of tuna. However, the Council's intent for this exemption cited in Framework 33 was to exempt all species that are not managed by the New England Fishery Management Council (NEFMC) or the Mid-Atlantic Fishery Management Council (MAFMC).

In addition to tuna, striped bass and lobster, among other species, are not managed by the NEFMC or the MAFMC, and therefore, should be precluded from the prohibition of sale. To address this issue, the regulations at § 648.81(c)(2)(ii)(B) and (f)(2)(iii)(B), and at § 648.89(e)(3)(ii), would be revised to allow the sale of fish species that are not managed by the Councils, including striped bass and lobster, when a vessel holds a charter/party LOA issued by the Regional Administrator.

Request for Comments

The public is invited to comment on any of the measures proposed in this rule. NMFS is especially interested in receiving comments on the following proposed measures for which the agency has concern: 1) The proposed revisions to the AMs for the six stocks not currently allocated to sectors (SNE/MA winter flounder, northern windowpane flounder, southern windowpane flounder, ocean pout, Atlantic halibut, and Atlantic wolffish); 2) the use of catch projections for evaluating the total yellowtail flounder catch in order to trigger the scallop fishery AM; and 3) the proposed common pool trip limits for FY 2012, which is the first year the common pool fishery will be subject to the trimester TAC AM.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Framework 47 to the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. Further, pursuant to section 303(c) of the Magnuson-Stevens Act, the Council has deemed this proposed rule as necessary and appropriate to implement Framework 47.

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

An IRFA, consistent with the Regulatory Flexibility Act (RFA) analysis contained in Framework 47 and the preamble to this proposed rule, has been prepared, as required by section 603 of the RFA. The IRFA consists of this section, the SUMMARY section of the preamble of this proposed rule, and the EA prepared for Framework 47. Another IRFA, incorporated in this summary by reference, was prepared for the proposed rule to approve the 2012 sector operations plans and allocate annual catch entitlements to sectors. The IRFA describes the economic impact this proposed rule would have on small entities if adopted. A description of the action, why it is being considered, and the legal basis for this action are contained in Framework 47, and in the preamble to this rule. This IRFA analyzes expected impacts of the proposed measures in Framework 47, including setting GOM cod specifications based on the new GOM cod assessment. As explained in the preamble, however, the Council did not adopt ABCs for GOM cod in Framework 47, and if approved, Framework 47 would not include GOM cod specifications for FY 2012-2014. Therefore, the following summary also includes expected impacts of this proposed action in the absence of GOM cod specifications. FY 2010, which is the last full fishing year for which data are available, was used as the baseline period in this analysis to estimate the impacts of the proposed action on regulated small entities.

Description and Estimate of the Number of Small Entities to which the Proposed Rule will Apply

The measures proposed in Framework 47 would primarily affect commercial groundfish vessels (in a sector or in the common pool) and commercial Atlantic sea scallop vessels. The primary economic impact of the proposed action is associated with the specification of ACLs and

sub-ACLs. The size standard for determining small versus large entities for regulated commercial fishing entities (North American Industry Classification System code 114111) is $4 million in sales; regulated entities with less than $4 million in sales are considered small. Multiple vessels may be owned by a single owner, and contrary to the IRFA prepared for Framework 47, data tracking ownership recently became available to determine affiliated entities. However, this IRFA does not analyze the expected impacts of the proposed action using ownership groups, (i.e., ownership of multiple vessels by one owner). Therefore, for the purposes of analysis, each permitted vessel is treated as a single entity, except for vessels participating in the sector program, as described below.

In the IRFA prepared for Framework 47, as explained in Section 8.11.2 of Framework 47, sectors were used as the regulated entity for the first time to estimate impacts of the proposed action. Sectors were used as the entity for analysis, in part, because each vessel's Potential Sector Contribution only becomes fishable quota if the vessel is a member of a sector. Since sectors are allocated Annual Catch Entitlement (ACE), based on the cumulative Potential Sector Contribution of each individual sector member, sectors as an affiliated entity provides a useful approach for analyzing the impacts of Framework 47. This approach is different than the approach used to prepare the IRFA for the proposed rule to implement the 2012 sector operations plans and allocate ACE to sectors, as well as other previous groundfish actions. In the past, individual vessels, not sectors, were used as the regulated entity to estimate impacts of proposed measures on vessels participating in the sector program. NMFS determined that deeming a sector as the regulated entity, for the purposes of analysis under the Regulatory Flexibility Act (RFA), is a useful alternative to analysis of individual vessels for Framework 47. NMFS believes this analysis should also be completed using the individual vessel as the regulated entity

to provide continuity with the RFA analyses of previous actions. Therefore, a supplemental analysis has been prepared using individual vessels as the regulated entity to analyze the impacts of Framework 47. This supplemental analysis, which is described below, along with the Framework 47 analysis, gives the public the best opportunity to review the impacts of Framework 47 in the context of prior and concurrent actions.

Under the Framework 47 RFA analysis, which is described in Section 8.11.2 of Framework 47, the entities affected by the proposed action would include 7 large and 10 small regulated entities participating in the sector program, and 342 small regulated entities in the common pool. If using individual vessels as the regulated entity for the sector program, this proposed action would affect 740 small regulated entities enrolled in the sector program. In addition, because the proposed action would decrease the available GB yellowtail flounder, permitted scallop vessels are regulated by this action. Potentially affected entities in the scallop fishery would include 347 limited access scallop vessels and 730 general category scallop vessels. All individual vessels in the sea scallop fishery are considered small business entities under the Small Business Administration criteria.

Using sectors as the regulated entity to estimate impacts of the proposed action, there were 7 large and 10 small regulated entities participating in the sector program in FY 2010. Mean gross sales of fish for the 7 large entities was $13.7 million and approximately $2 million for the 10 small entities. Under the proposed action, 3 large entities would fall below the threshold of $4 million in sales, which would result in 4 large and 13 small regulated entities. Mean gross sales for the large regulated entities are estimated at $9.5 million under the proposed action, which is a 30-percent reduction from the baseline period. Mean gross sales for the small

regulated entities is estimated at $0.7 million, which is a 62-percent reduction from the baseline period.

There were 343 commercial groundfish vessels in the common pool that had at least $1 in gross sales from fish during FY 2010. All of these were small regulated entities with mean gross sales of $156,000. Under the proposed action, gross sales from groundfish would be approximately $2,600, which is less than 2 percent of the mean gross sales. Although the proposed action may trigger common pool accountability measures, which would limit opportunities to fish for groundfish, the impact on small regulated entities would likely be insignificant.

Using individual vessels as the regulated entity to estimate the impacts of the proposed action, there were 740 vessels enrolled in the sector program, and 607 common pool vessels, in FY 2010. During the baseline period, there were 446 sector vessels, and 343 common pool vessels, that generated gross sales from any species. 305 sector vessels, and 145 common pool vessels, generated gross sales from groundfish species. No individual vessel generated gross sales in excess of $4 million. Therefore, using individual vessels as the regulated entity, all regulated entities are considered small, and there are no disproportional impacts between small and large entities. Mean gross sales of fish for vessels enrolled in the sector program were $299.9K, and $138.1K for common pool vessels. This proposed action is expected to reduce mean gross sales of fish by 33 percent for sector vessels; mean gross sales of fish are predicted to be $200.1K. Mean gross sales for common pool vessels are expected to decline to $132.6K, which is less than a 5-percent decline.

Mean gross sales for limited access scallop vessels are approximately $1 million, and are approximately $80,000 for general category scallop vessels. The statistical areas with the

highest catch rates of GB yellowtail flounder are 562 and 525. If the proposed action caused a closure of one or both of these areas beginning on March 1, 2013, fishing effort by scallop vessels would be displaced to other locations, primarily the Mid-Atlantic region. Since more than 75 percent of revenues from the Atlantic sea scallop fishery come from statistical areas south of Georges Bank, the impact of a closure in statistical areas 562 or 525 are difficult to anticipate. In addition, during FY 2010, less than 1 percent of total revenues in the scallop fishery came from the statistical areas potentially affected by the proposed action. There were no access area trips taken in the scallop fishery during this time. Opening of portions of statistical area 562 to access area trips could increase the probability of triggering an AM for the scallop fishery and could increase the potential for adverse regulatory impacts to lost access area trips or displaced fishing effort. However, the effect on profitability is likely to be minimal, and because all participating vessels are deemed to be small regulated entities, there are no disproportional impacts.

The primary impact of the proposed action is associated with setting ACLs, which includes specification of sub-ACLs of GB and GOM haddock to the Atlantic herring fishery. Because this action decreases the ABCs for GB and GOM haddock, Atlantic herring vessels are potentially affected by this action. In calendar year 2010, 90 vessels were issued a limited access herring permit and two vessels exceeded $4 million in sales. Approximately 17 percent of the haddock ABCs were landed in FY 2010, and similar utilization of the available quota is expected under the proposed action. Therefore, vessels participating in the Atlantic herring fishery are not expected to be affected by this action.

Of the affected entities under the proposed action, only groundfish sectors and vessels are anticipated to be significantly adversely affected. Due to conservation needs, the proposed

action would significantly reduce short-term profits for regulated small entities relative to the baseline period. Regulated small sector entities are estimated to be more adversely impacted by the proposed action than large sector entities. Gross sales for small sector entities would be reduced by 63 percent, and gross sales for large entities would be reduced by 30 percent. These are short-term impacts. In addition, reductions in fishing opportunities due to GOM cod and GB yellowtail flounder sub-ACLs are necessary to ensure rebuilding of these stocks. The ability to lease quota between sectors and consolidate quota within sectors will help mitigate the adverse effect on profitability. In addition, proposed exemptions included in the 2012 sector rule are expected to mitigate impacts as described in the IRFA prepared for the proposed action. However, using sectors as the regulated entities, the proposed action is likely to have a significant impact on regulated small sector entities under the disproportionality criteria. This analysis was based in part on anticipated decreases in the GOM cod catch limits for FY 2012-2014 that were initially proposed as part of this action. However, Framework 47 no longer proposes to set the GOM cod catch limits for FY 2012-2014, as explained in the preamble, and therefore, the expected impacts of this proposed action on regulated small entities are likely to be less.

Economic Impacts of the Proposed Action and Alternatives

The economic impacts of each proposed measure are discussed in more detail in Sections 7.4 and 8.11 of the Framework 47 EA and are summarized below. These analyses use the individual vessel to estimate economic impacts, except as previously described. The proposed ABCs and ACLs are the greatest contributing factor to the economic impacts of the proposed action, particularly the ABCs and ACLs for GOM cod and GB yellowtail flounder. A range of possible ABCs for GOM cod was analyzed, and at the low end, the economic impacts are

expected to be severe and negative. The economic impacts of the other proposed measures on the groundfish fishery are less severe. Although these measures could have some negative impacts in the short-term, these measures would have long-term benefits to the fishery.

Revised Status Determination Criteria and GB Yellowtail Flounder Rebuilding Program

Economic impacts of the proposed revisions to the status determination criteria for the three winter flounder stocks and GOM cod primarily occur through the affect these changes have on setting the OFLs, ABCs, and ACLs based on these criteria. Over the long-term, the proposed status determination criteria provide a limit on the potential harvest from the fishery. The proposed MSY values are higher for GB and SNE/MA winter flounder than the current MSY values considered in the no action alternative, which would result in potential revenues of $9.6 million more than the no action alternative. The rebuilding programs for these two stocks would determine how much of this additional revenue would be realized in the fishery.

Economic impacts of the proposed revision to the rebuilding period for GB yellowtail flounder would also occur through the affect these changes would have on setting the specifications each year for this stock. The economic impact of the various rebuilding strategies for GB yellowtail flounder was estimated by calculating the net present value of the potential revenue streams that would occur under each strategy. The proposed strategy to rebuild by 2032 would result in a mean net present value of $234 million, which is approximately 5 percent more than the alternative to rebuild the stock by 2023. The proposed action would also result in much larger returns than the no action alternative, which is scheduled to rebuild the stock by 2016. The no action alternative would constrain scallop fishery on Georges Bank, and may also prevent sector vessels from fishing in the GB yellowtail flounder stock area. Thus, the no action

alternative would result in large revenue reductions for the groundfish fishery and the scallop fishery.

Annual Catch Limits

The total potential groundfish revenue of the proposed specifications is estimated to be approximately $61.1 million. This is approximately a 25-percent reduction from the gross groundfish revenues in FY 2010, and a 50-percent reduction from the no action alternative. GOM cod is the constraining stock under this proposed action. The proposed action would allow sustained catches of other GOM stocks, including plaice and witch flounder. In addition, estimates of gross groundfish revenue that were only 25 percent lower than FY 2010 are a result of a likely shift in the fishery to avoid cod and maximize revenues from other stocks. Catch rates could also increase as stocks rebuild, which would make these estimates conservative.

The proposed action would have a negative economic impact across all size classes, gear types, and nearly all hailing ports. Chatham, MA, would be expected to maintain its revenue from groundfish, and groundfish revenues in Boston, MA, would decline by less than 25 percent. New Hampshire would lose over 90 percent of its gross groundfish revenues. Massachusetts would lose 33 percent of its gross revenues under the proposed action. However, Gloucester, MA, would likely have more than a 40-percent reduction in gross groundfish revenue. The 30-50 ft (9.1-15.2 m) vessel size class would likely be the most adversely affected as the fishery shifts from the nearshore areas west of the Western GOM Closed Area to deeper waters farther east. Analysis also indicates that gillnet would be the most negatively affected gear type. Under this action, GOM cod is the constraining stock, and most of the lost groundfish revenues estimated are a result of low GOM cod catch limits. However, because this action no longer proposes to set the GOM cod catch limits for FY 2012-2014, the potential revenue would likely

be higher than initially estimated, which would result in less of a reduction from the FY 2010 gross groundfish revenues.

The no action alternative would set the specifications for FY 2012 as previously adopted by Framework 44 and Framework 45. No specifications would be adopted for FY 2013-2014, with the exception of pollock. FY 2013-2014 specifications for pollock were adopted by Framework 45. The no action alternative, which is the only other alternative considered, would generate the highest groundfish revenue ($114 million), and would likely have positive net benefits relative to FY 2010 across all hailing ports and states, with the exception of Rhode Island, which may lose 30 percent of gross revenues.

U.S./Canada Management Area TACs

Revenues from the FY 2012 proposed TACs for the U.S./Canada Management Area were estimated using two catch scenarios. In the first scenario, total landings in FY 2012 were assumed to be 75 percent of the TAC for Eastern GB cod and GB yellowtail flounder and 15 percent of the TAC for Eastern GB haddock. Under this catch scenario, estimated revenues from the U.S./Canada Management Area are between 46 and 57 percent lower than FY 2010 revenues. However, because the FY 2012 TACs are lower, a larger proportion of the TAC may be caught in FY 2012. In the second scenario, total landings in FY 2012 were assumed to be 100 percent of the Eastern GB cod and GB yellowtail flounder TAC and 30 percent of the Eastern GB haddock TAC. The estimated revenues are greater for all stocks in this scenario compared to the first scenario, and are 42 percent and 28 percent lower than FY 2010 for Eastern GB cod and GB yellowtail flounder, respectively. If more of the U.S. TAC for Eastern GB haddock is caught, revenues would increase by approximately 3 percent compared to FY 2010. The no action

alternative would not specify TACs for the U.S./Canada Management Area. In comparison to the no action alternative, the proposed action would have short-term positive economic impacts.

In addition, because the FY 2012 TACs are lower than the FY 2011 TACs, the proposed action would likely result in reduced overall revenue from the U.S./Canada Management Area. This reduced revenue would be due to both the decrease in potential landings of Eastern GB cod and GB yellowtail flounder, as well as a loss of revenue from other stocks caught on trips to the Eastern U.S./Canada Area if vessels lose access to this area when a pertinent TAC is projected to be caught. Although the Eastern GB haddock TAC will not limit haddock catch, access to haddock may be impacted by the reduced FY 2012 TACs for Eastern GB cod and GB yellowtail flounder. Reductions in revenue could be mitigated if vessels are able to minimize the catch of Eastern GB cod and maximize the catch of Eastern GB haddock.

Different impacts would likely be realized by common pool and sector vessels due to the nature of the operations of such groups and applicable regulations. Unlike vessels operating within the same sector, the common pool is unable to actively coordinate fishing operations to maximize fishing revenue based upon resource availability and market price. Therefore, impacts on common pool vessels will be dependent upon the overall rate at which available TACs are caught, and whether any responsive measures necessary to prevent such TACs from being exceeded are triggered. Further, once the available ACE for a particular stock is caught, sectors must cease fishing operations in the entire stock area unless they lease in additional ACE for the pertinent stock. In contrast, while common pool vessels may be subject to more restrictive DAS or trip limits in a particular area, they could continue to fish in the Western U.S./Canada Area even after the GB yellowtail flounder TAC is caught, provided they do not retain any GB yellowtail flounder.

The other alternative considered, the no action alternative, would result in decreased revenue in FY 2012 as a result of no TACs being specified for the U.S./Canada Management Area. Due to limited fishing opportunities under this alternative, the long-term economic impacts would likely be negative compared to the proposed action. However, stock rebuilding could occur more quickly under this alternative, and the associated revenue resulting from an increasing stock size would likely provide long-term economic impacts.

Common Pool Restricted Gear Areas

The proposed action to remove the Western GB Multispecies and SNE Multispecies RGAs would be expected to increase revenues for common pool vessels when compared to the no action alternative. Removals of these RGAs would likely increase the common pool landings of SNE/MA yellowtail flounder. In FY 2010, only 26 percent of the common pool sub-ACL for this stock was caught. Based on this percentage of catch, and the SNE/MA yellowtail flounder ACLs proposed in this action, removing the RGAs would result in increased landings of this stock by 129 mt. These increased landings are estimated at $370,000. In addition, removal of the RGAs may reduce costs for common pool vessels because vessel operators would not be required to purchase selective gear to fish in these areas.

The no action alternative would restrict revenue for common pool vessels because the requirement to use selective gear would make fishing by common pool vessels less efficient. Under this alternative, common pool catch of stocks in Southern New England would be restricted, which may prevent the common pool from utilizing more of its available quota. This alternative may also increase costs for common pool vessels if the vessel must purchase selective gear to fish in the RGAs.

Accountability Measures

The economic impacts of the revisions to the AMs for windowpane flounder, ocean pout, Atlantic halibut, Atlantic wolffish, and SNE/MA winter flounder were analyzed by estimating changes in fishing vessel revenue that would occur if the proposed AM was triggered. The small AM areas for northern and southern windowpane flounder and ocean pout account for approximately $7 million of total revenue by groundfish vessels fishing in these areas. Only a portion of these revenues would be affected by this proposed AM because vessels could still fish inside these areas with selective gear. Catch data indicate that the composition of the catch inside these proposed AM areas would change substantially with the use of selective gear. Selective gear inside the AM areas catch a higher proportion of haddock and a lower proportion of flatfish relative to traditional trawl gears. Average revenues per tow for selective gears in this area were approximately 31 percent higher than the revenues per tow using traditional trawl gears. Depending on the profitability of other fishing options, vessels may also elect to fish in other areas rather than fish inside the AM area with selective gear. Given the relatively small size of these proposed AM areas, additional trip costs for fishing in other areas are likely negligible.

The large AM areas proposed for northern and southern windowpane flounder and ocean pout account for approximately $15 million of total revenue by groundfish vessels fishing in these areas. Approximately 75 percent of these revenues come from New Bedford, MA, and $1.7 million comes from Point Judith, RI. Similar to the small AM areas proposed, use of selective gears inside the large AM areas would substantially change the composition of catch and likely result in higher proportions of haddock caught and lower proportions of flatfish catch relative to traditional trawl gears. Revenues affected by these AM areas could likely be recovered by using selective gear or fishing in other areas.

Overall, the proposed AM for northern and southern windowpane flounder and ocean pout would result in negative economic impacts compared to the no action alternative. This AM would affect fishing behavior and apply to all commercial groundfish vessels. Under this proposed measure, fishermen would have to alter their behavior, which could impose additional costs. The greatest economic impact could reduce revenues by $15 million if the large AM areas are implemented simultaneously due to an overage of the total ACL for both stocks of windowpane flounder, or if the total ACL is exceeded for ocean pout.

The proposed AM for Atlantic halibut would prohibit possession in year 3 if the total ACL is exceeded in year 1. The maximum revenue loss from this proposed AM would be the value of the ACL during year 3. In FY 2012-2014, the groundfish sub-ACL is 36 mt, which would result in approximately $400,000 in groundfish revenues. This revenue loss is greater than in the no action alternative because the AM would apply to sector and common pool vessels. The proposed AM for Atlantic wolffish and SNE/MA winter flounder would maintain the prohibition on possession for these two stocks. Because possession of these two stocks is currently prohibited, this proposed measure would not be expected to result in any revenue loss.

The no action alternative for Atlantic wolffish and SNE/MA winter flounder would require closure of statistical areas to common pool vessels if sector and common pool catch exceeded the common pool sub-ACL for these stocks. This could lead to derby effects since fishing activity would be constrained if the AM is triggered. The no action alternative for Atlantic halibut would require adjustment to trip limits for common pool vessels. Since the current possession limit is one fish per day, the only possible trip limit adjustment would be to decrease the possession limit to zero, and prohibit possession of this stock. Common pool revenues could be reduced by $25,000 compared to FY 2010 if possession of this stock was

prohibited. The no action alternatives for windowpane flounder and ocean pout are expected to have no economic impacts because possession of these stocks is already prohibited.

Removal of Cap on Yellowtail Flounder Catch in GB Scallop Access Areas

This proposed measure would not be expected to have any economic impacts on the groundfish fishery. Elimination of the 10-percent yellowtail flounder access area caps would reduce the incentive for derby fishing, and would likely have positive impacts on the scallop fishery compared to the no action alternative. However, removing the 10-percent access area caps could increase the risk for the scallop fishery to exceed its sub-ACL for yellowtail flounder if the scallop fishery catches more yellowtail flounder in the access areas than projected. This would trigger the scallop fishery AMs, which would restrict fishing, reduce scallop landings, and increase fishing costs. The no action alternative would increase the incentive for derby fishing and may have negative impacts on the scallop fishery. Some of these negative impacts could be mitigated because vessels can transfer unused access area trips to open areas if an access area closes.

Implementation of the Scallop Fishery AM

The proposed revisions to the implementation of the scallop fishery AM would not be expected to have any economic impacts on the groundfish fishery. The proposed revision would have a positive economic impact on the scallop fishery because the scallop fishery AMs would not be triggered if less than 150 percent of the scallop fishery sub-ACL for GB and SNE/MA yellowtail flounder is caught, or if the total ACL is not exceeded. This would prevent effort shifts to less optimal areas by scallop vessels, as well as effort shifts into seasons with lower meat weights for scallops. The no action alternative would not modify the trigger for the scallop fishery AM, and the pertinent AM would be triggered if the scallop fishery exceeds its sub-ACL

by 1 percent or more. The proposed measure would minimize negative economic impacts to the scallop fishery compared to the no action alternative and would prevent the loss of scallop landings, revenues, and increased fishing costs that would result under the no action alternative.

Inseason Re-Estimation of Scallop Fishery GB Yellowtail Flounder sub-ACL

The proposed measure would have positive economic benefits for the groundfish fishery. These benefits would only occur in years when the scallop fishery is not projected to catch its initial sub-ACL, and the groundfish sub-ACL is increased mid-fishing year. When additional quota is made available to the groundfish fishery, revenues for the groundfish fishery would be expected to increase if groundfish vessels are able to catch additional GB yellowtail flounder. However, compared to the no action alternative, this measure could have negative impacts if the inseason re-estimation of projected yellowtail flounder catch by the scallop fishery is incorrect. If the scallop fishery sub-ACL is reduced in error, and subsequently the groundfish sub-ACL is increased, total catch of GB yellowtail flounder could exceed the U.S. TAC. Any overage of the U.S. TAC for GB yellowtail is deducted from the following year's TAC. Because the allocation of GB yellowtail flounder is set in advance, and does not vary with changes to the overall TAC, the catch available to the groundfish fishery would be reduced.

The no action alternative would not provide a mechanism to re-estimate the scallop fishery GB yellowtail flounder sub-ACL mid-fishing year and adjust the groundfish fishery sub-ACL. The no action alternative would have negative impacts on the scallop fishery if a yellowtail flounder AM is triggered and effort shifts to areas and seasons with lower scallop catch rates and meat weights. This could increase fishing costs as scallop vessels fish in less optimal areas, and scallop revenues would decline. The current AM trigger for the scallop

fishery would result in lower profits, lower crew incomes, and less economic benefits than the proposed action.

Regulatory Changes Not Included in Framework 47

There are several changes proposed in this rule that are considered to be mostly administrative in nature and do not affect individual vessel operations that would result in any economic impact to regulated entities. These changes include modifying the definition of the Ruhle trawl, reinserting text defining stock areas applicable to sector vessels, revising the methodology used to attribute fillets, fish parts, and fish landed for at-home consumption to the pertinent ACL, and clarifying the regulations for charter/party and recreational groundfish vessels fishing in groundfish closed areas. This proposed change to the at-home consumption conversion factors would implement a more precise method using species-specific conversion factors, which would be expected to have positive impacts on the fishery due to improved quota monitoring. In addition, this rule proposes to broaden the definition of the Ruhle trawl to include the mid-size Eliminator trawl Ruhle trawl for use in the Regular B DAS Program and the Eastern U.S./Canada Haddock SAP. This proposed revision would provide more flexibility for the groundfish fishery in the use of trawl gear that minimizes catch of stocks of concern. The additional exempted gear option would provide vessels a choice of the most cost-effective means of targeting healthy stocks. Vessels choosing to use the mid-size Eliminator trawl would incur the purchase cost of the gear.

Measures Proposed to Mitigate Adverse Economic Impacts of the Proposed Action

During the development of Framework 47, NMFS and the Council considered ways to reduce the regulatory burden on, and provide flexibility for, the regulated entities in this proposed action. Proposed actions and alternatives are described in detail in Framework 47,

which includes an EA, RIR, and IRFA (available at ADDRESSES). The proposed action contains several measures that would provide small entities with some ability to offset at least some portion of the estimated economic impacts associated with the proposed measures. The delay in the implementation of the area-based AMs for windowpane flounder and ocean pout will give fishermen time to plan their fishing operations in order to mitigate the economic impacts of this proposed measure. In addition, the proposed removal of the Western GB and SNE Multispecies RGAs for common pool vessels would also mitigate the economic impacts of the proposed action by allowing common pool vessels more flexibility to catch the pertinent sub-ACLs, as well as reducing the potential costs of fishing in these areas with selective gear. In addition, the re-estimation of the GB yellowtail flounder sub-ACL would help mitigate adverse economic impacts of the proposed action by allowing increased landings of this stock by the groundfish fishery. These increased landings would be expected to increase revenues for the groundfish fishery. In addition, proposed exemptions for sector vessels in the 2012 sector rule could also mitigate negative impacts of this proposed action.

Eliminating the cap on yellowtail flounder catch in the Nantucket, Closed Area I, and Closed Area II Sea Scallop Access Areas would reduce the incentive for derby fishing in the access areas, which would have positive impacts for scallop vessels. The revision to the scallop fishery AM trigger would also be expected to have positive impacts on the scallop fishery. This measure would prevent effort shifts to less optimal areas and seasons with lower scallop meat weights and would minimize reduced scallop revenues and increased fishing costs.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule

This action contains no new collection-of-information, reporting, or recordkeeping requirements. This action does not duplicate, overlap, or conflict with any other Federal law.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 19, 2012

_____

Samuel D. Rauch III,

Acting Assistant Administrator for Fisheries,

National Marine Fisheries Service.

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

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.14,

a. Remove and reserve paragraphs (i)(2)(vi)(B), (i)(2)(vi)(C), and (i)(3)(v)(C);

b. Remove paragraph (k)(7)(i)(C)(4); and

c. Revise paragraph (k)(13)(ii)(B) and add paragraph (k)(20) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(k) * * *

(13) * * *

(ii) * * *

(B) Possess or land per trip more than the possession or landing limits specified in § 648.86(a), (b), (c), (e), (g), (h), (j), (l), (m), (n), and (o); § 648.82(b)(5) and (6); § 648.85; or § 648.88, if the vessel has been issued a limited access NE multispecies permit or open access NE multispecies permit, as applicable.

* * * * *

(20) AMs for both stocks of windowpane flounder and ocean pout. It is unlawful for any person, including any owner or operator of a vessel issued a valid Federal NE multispecies permit or letter under § 648.4(a)(1)(i), unless otherwise specified in § 648.17, to fail to comply with the restrictions on fishing and gear specified in § 648.90(a)(D).

5. In § 648.60, paragraphs (a)(5)(ii)(C)(1) and (a)(5)(ii)(C)(3) are removed and reserved, and paragraph (g)(1) is revised to read as follows:

§ 648.60 Sea scallop area access program requirements.

* * * * *

(g) * * * (1) An LAGC scallop vessel may only fish in the scallop access areas specified in § 648.59(a) through (e), subject to the seasonal restrictions specified in § 648.59(b)(4), (c)(4), and (d)(4), and subject to the possession limit specified in § 648.52(a), and provided the vessel complies with the requirements specified in paragraphs (a)(1), (a)(2), (a)(6) through (a)(9), (d), (e), (f), and (g) of this section. A vessel issued both a NE multispecies permit and an LAGC scallop permit may fish in an approved SAP under § 648.85 and under multispecies DAS in the Closed Area I, Closed Area II, and Nantucket Lightship Sea Scallop Access Areas specified in

§ 648.59(b) through (d), provided the vessel complies with the requirements specified in § 648.59(b)(5)(ii), (c)(5)(ii), and (d)(5)(ii), and this paragraph (g), but may not fish for, possess, or land scallops on such trips.

* * * * *

6. In § 648.64, the introductory text of paragraph (a) and paragraphs (b)(1) and (c)(1) are revised to read as follows:

§ 648.64 Yellowtail flounder sub-ACLs and AMs for the scallop fishery.

(a) As specified in § 648.55(d), and pursuant to the biennial framework adjustment process specified in § 648.90, the scallop fishery shall be allocated a sub-ACL for the Georges Bank and Southern New England/Mid-Atlantic stocks of yellowtail flounder. Unless otherwise specified in § 648.90(a)(4)(iii)(C) of the NE multispecies regulations, the sub-ACLs for the 2011 through 2013 fishing years are as follows:

* * * * *

(b) * * * (1) Unless otherwise specified in § 648.90(a)(5)(iv) of the NE multispecies regulations, if the Georges Bank yellowtail flounder sub-ACL for the scallop fishery is exceeded, the area defined by the following coordinates shall be closed to scallop fishing by vessels issued a limited access scallop permit for the period of time specified in paragraph (b)(2) of this section:

Georges Bank Yellowtail Closure

Point	N. lat.	W. long.
GBYT AM 1	41°50'	66°51.94'
GBYT AM 2	40°30.75'	65°44.96'
GBYT AM 3	40°30'	66°40'
GBYT AM 4	40°40'	66°40'
GBYT AM 5	40°40'	66°50'

GBYT AM 6	40°50'	66°50'
GBYT AM 7	40°50'	67°00'
GBYT AM 8	41°00'	67°00'
GBYT AM 9	41°00'	67°20'
GBYT AM 10	41°10'	67°20'
GBYT AM 11	41°10'	67°40'
GBYT AM 12	41°50'	67°40'
GBYT AM 1	41°50'	66°51.94'

* * * * *

(c) * * * (1) Unless otherwise specified in § 648.90(a)(5)(iv) of the NE multispecies regulations, if the Southern New England/Mid-Atlantic yellowtail flounder sub-ACL for the scallop fishery is exceeded, the area defined by the following coordinates shall be closed to scallop fishing by vessels issued a limited access scallop permit for the period of time specified in paragraph (c)(2) of this section:

Southern New England Yellowtail Closure

Point	N. lat.	W. long.
SNEYT AM 1	41°28.4'	71°10.25'
SNEYT AM 2	41°28.57'	71°10'
SNEYT AM 3	41°20'	71°10'
SNEYT AM 4	41°20'	70°50'
SNEYT AM 5	41°20'	70°30'
SNEYT AM 6	41°18'	70°15'
SNEYT AM 7	41°17.69'	70°12.54'
SNEYT AM 8	41°14.73'	70°00'
SNEYT AM 9	39°50'	70°00'

SNEYT AM 10	39°50'	71°00'
SNEYT AM 11	39°50'	71°40'
SNEYT AM 12	40°00'	71°40'
SNEYT AM 13	40°00'	73°00'
SNEYT AM 14	40°41.23'	73°00'
SNEYT AM 15	41°00'	71°55'
SNEYT AM 16	41°00'	71°40'
SNEYT AM 17	41°20'	71°40'
SNEYT AM 18	41°21.15'	71°40'

* * * * *

7. In § 648.81, revise paragraphs (c)(2)(ii)(B), (f)(2)(iii)(B), and (n), and remove paragraph (o) to read as follows:

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

* * * * *

(c) * * *

(2) * * *

(ii) * * *

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

* * * * *

(f) * * *

(2) * * *

(iii) * * *

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

* * * * *

(n) GOM Cod Spawning Protection Area. (1) Except as specified in paragraph (o)(2) of this section, from April through June of each year, no fishing vessel or person on a fishing vessel may enter, fish in, or be in; and no fishing gear capable of catching NE multispecies may be used on, or be on board, a vessel in the GOM Cod Spawning Protection Area, as defined by straight lines connecting the following points in the order stated (a chart depicting this area is available from the RA upon request):

GOM Cod Spawning Protection Area

Point	N. Latitude	W. Longitude
CSPA1	42° 50.95’	70° 32.22’
CSPA2	42° 47.65’	70° 35.64’
CSPA3	42° 54.91’	70° 41.88’
CSPA4	42° 58.27’	70° 38.64’
CSPA1	42° 50.95’	70° 32.22’

(2) Paragraph (n)(1) of this section does not apply to persons on a fishing vessel or fishing vessels:

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

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

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

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

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

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

(iii) That are fishing as a charter/party or recreational fishing vessel, provided that:

(A) With the exception of tuna, fish harvested or possessed by the vessel are not sold or intended for trade, barter, or sale, regardless where the species are caught;

(B) The vessel has no gear other than pelagic hook and line gear, as defined in this part, on board unless that gear is properly stowed pursuant to § 648.23(b); and

(C) There is no retention of regulated species, or ocean pout; and

(iv) That are transiting pursuant to paragraph (i) of this section.

8. In § 648.82,

a. Remove paragraphs (n)(2)(ii)(O) and (n)(2)(ii)(P)

b. Revise paragraphs (n)(2)(i)(A), (n)(2)(ii) introductory text, and (n)(2)(ii)(L) through (n)(2)(ii)(N):

§ 648.82 Effort-control program for NE multispecies limited access vessels.

* * * * *

(n) * * *

(2) * * *

(i) Trimester TACs. (A) Trimester TAC distribution. Any sub-ACLs specified for common pool vessels pursuant to § 648.90(a)(4) shall be apportioned into trimesters of 4 months in duration,

beginning at the start of the fishing year (i.e., Trimester 1: May 1 – August 31; Trimester 2: September 1 – December 31; Trimester 3: January 1 – April 30), as follows):

Portion of Common Pool Sub-ACLs Apportioned to Each Stock for Each Trimester

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

* * * * *

(ii) Stock area closures. If the Regional Administrator projects that 90 percent of the trimester TACs specified in paragraph (n)(2)(i) of this section will be caught based upon available information, the Regional Administrator shall close the area where 90 percent of the catch for each such stock occurred, according to available VTR data and other information, to all common pool vessels using gear capable of catching such stocks for the remainder of that trimester, as specified in paragraphs (n)(2)(ii)(A) through (P) of this section, in a manner consistent with the Administrative Procedure Act. For example, if the Regional Administrator projects that 90 percent of the CC/GOM yellowtail flounder Trimester 1 TAC will be caught, common pool vessels using trawl and gillnet gear shall be prohibited from fishing in the CC/GOM Yellowtail Flounder Closure Area specified in paragraph (n)(2)(ii)(G) of this section until the beginning of Trimester 2 on September 1 of that fishing year. Based upon all available

information, the Regional Administrator is authorized to expand or narrow the areas closed under this paragraph (n)(2)(ii) in a manner consistent with the Administrative Procedure Act. If it is not possible to identify an area where only 90 percent of the catch occurred, the Regional Administrator shall close the smallest area possible where greater than 90 percent of the catch occurred.

* * * * *

(L) Redfish Trimester TAC Area. For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the Redfish Trimester TAC Area shall apply to common pool vessels using trawl gear within the area bounded by straight lines connecting the following points in the order stated:

Redfish Trimester TAC Area

Point	N. Latitude	W. Longitude
RF1	(1)	69° 20’
RF2	43° 40’	69° 20’
RF3	43° 40’	69° 00’
RF4	43° 20’	69° 00’
RF5	43° 20’	67° 40’
RF6	(2)	67° 40’
RF7	42° 53.1'	67° 44.4'
RF8	(2)	67° 40’
RF9	41° 20’	67° 40’
RF10	41° 20’	68° 10’
RF11	41° 10’	68° 10’
RF12	41° 10’	68° 20’
RF13	41° 00’	68° 20’
RF14	41° 00’	69° 30’
RF15	41° 10’	69° 30’
RF16	41° 10’	69° 50’
RF17	41° 20’	69° 50’
RF18	41° 20’	(3)
RF19	(4)	70° 00’
RF20	(5)	70° 00’

(1) Intersection with ME shoreline.
(2) U.S./Canada maritime boundary.
(3) East-facing shoreline of Nantucket, MA.

(4) North-facing shoreline of Nantucket, MA.
(5) South-facing shoreline of Cape Cod, MA.

(M) White Hake Trimester TAC Area. For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the White Hake Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by straight lines connecting the following points in the order stated:

White Hake Trimester TAC Area

Point	N. Latitude	W. Longitude
RF1	(1)	69° 20’
RF2	43° 40’	69° 20’
RF3	43° 40’	69° 00’
RF4	43° 20’	69° 00’
RF5	43° 20’	67° 40’
RF6	(2)	67° 40’
RF7	42° 53.1'	67° 44.4'
RF8	(2)	67° 40’
RF9	41° 20’	67° 40’
RF10	41° 20’	68° 10’
RF11	41° 10’	68° 10’
RF12	41° 10’	68° 20’
RF13	41° 00’	68° 20’
RF14	41° 00’	69° 30’
RF15	41° 10’	69° 30’
RF16	41° 10’	69° 50’
RF17	41° 20’	69° 50’
RF18	41° 20’	(3)
RF19	(4)	70° 00’
RF20	(5)	70° 00’

(1) Intersection with ME shoreline.
(2) U.S./Canada maritime boundary.
(3) East-facing shoreline of Nantucket, MA.
(4) North-facing shoreline of Nantucket, MA.
(5) South-facing shoreline of Cape Cod, MA.

(N) Pollock Trimester TAC Area. For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the Pollock Trimester TAC Area shall apply to

common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by straight lines connecting the following points in the order stated:

Pollock Trimester TAC Area

Point	N. Latitude	W. Longitude
RF1	(1)	69° 20’
RF2	43° 40’	69° 20’
RF3	43° 40’	69° 00’
RF4	43° 20’	69° 00’
RF5	43° 20’	67° 40’
RF6	(2)	67° 40’
RF7	42° 53.1'	67° 44.4'
RF8	(2)	67° 40’
RF9	41° 20’	67° 40’
RF10	41° 20’	68° 10’
RF11	41° 10’	68° 10’
RF12	41° 10’	68° 20’
RF13	41° 00’	68° 20’
RF14	41° 00’	69° 30’
RF15	41° 10’	69° 30’
RF16	41° 10’	69° 50’
RF17	41° 20’	69° 50’
RF18	41° 20’	(3)
RF19	(4)	70° 00’
RF20	(5)	70° 00’

(1) Intersection with ME shoreline.
(2) U.S./Canada maritime boundary.
(3) East-facing shoreline of Nantucket, MA.
(4) North-facing shoreline of Nantucket, MA.
(5) South-facing shoreline of Cape Cod, MA.

* * * * *

9. In § 648.83 revise paragraph (b)(1) to read as follows:

§ 648.83 Multispecies minimum fish sizes.

* * * * *

(b) * * *(1) Each person aboard a vessel issued a NE multispecies limited access permit and fishing under the NE multispecies DAS program or on a sector trip may possess up to 25 lb

(11.3 kg) of fillets that measure less than the minimum size, if such fillets are from legal-sized fish and are not offered or intended for sale, trade, or barter.

(i) For the purpose of determining compliance with common pool possession limits, on board the vessel, and at the time of landing, as specified at § 648.86, the weight of fillets and parts of fish, other than whole-gutted or gilled fish, shall be multiplied by 3.

(ii) For the purpose of accounting for all catch by sector vessels, as specified at § 648.87(b)(1)(v), the weight of all fillets and parts of fish, other than whole-gutted or gilled fish reported for at-home consumption, shall be multiplied by the conversion factors provided in writing by the Regional Administrator.

(iii) For the purposes of accounting for all catch by common pool vessels and monitoring sub-ACLs, the weight of all fillets and parts of fish, other than whole-gutted or gilled fish reported for at-home consumption shall be multiplied by the conversion factors provided in writing by the Regional Administrator.

* * * * *

10. In § 648.85,

a. Remove paragraphs (b)(6)(iv)(J)(3)(vi), (c)(1), (c)(2), and (c)(3); and

b. Revise paragraphs (b)(5) and (b)(6)(iv)(J)(3)(i) through (b)(6)(iv)(J)(3)(v) to read as follows:

§ 648.85 Special management programs.

* * * * *

(b) * * *

(5) Incidental Catch TACs. Unless otherwise specified in this paragraph (b)(5), Incidental Catch TACs shall be based upon the portion of the ACL for a stock specified for the

common pool vessels pursuant to §648.90(a)(4), and allocated as described in this paragraph (b)(5), for each of the following stocks: GOM cod, GB cod, GB yellowtail flounder, GB winter flounder, CC/GOM yellowtail flounder, American plaice, white hake, SNE/MA yellowtail flounder, SNE/MA winter flounder, and witch flounder. Because GB yellowtail flounder and GB cod are transboundary stocks, the incidental catch TACs for these stocks shall be based upon the common pool portion of the ACL available to U.S. vessels. NMFS shall send letters to limited access NE multispecies permit holders notifying them of such TACs.

(i) Stocks other than GB cod, GB yellowtail flounder, and GB winter flounder. With the exception of GB cod, GB yellowtail flounder, and GB winter flounder, 100 percent of the Incidental Catch TACs specified in this paragraph (b)(5) shall be allocated to the Regular B DAS Program described in paragraph (b)(6) of this section.

(ii) GB cod. The Incidental Catch TAC for GB cod specified in this paragraph (b)(5) shall be subdivided as follows: 50 percent to the Regular B DAS Program described in paragraph (b)(6) of this section; 16 percent to the CA I Hook Gear Haddock SAP described in paragraph (b)(7) of this section; and 34 percent to the Eastern U.S./Canada Haddock SAP described in paragraph (b)(8) of this section.

* * * * *

(6) * * *

(iv) * * *

(J) * * *

(3) * * *

(i) The net must be constructed with four seams (i.e., a net with a top and bottom panel and two side panels), and include at least the following net sections as depicted in Figure 1 of

this part (this figure is also available from the Administrator, Northeast Region): Top jib, bottom jib, jib side panels (x 2), top wing, bottom wing, wing side panels (x 2), bunt, square, square side panels (x 2), first top belly, first bottom belly, first belly side panels (x 2), and second bottom belly.

(ii) The top and bottom jibs, jib side panels, top and bottom wings, and and wing side panels, bunt, and first bottom belly (the first bottom belly and all portions of the net in front of the first bottom belly, with the exception of the square and the square side panels) must be at least two meshes long in the fore and aft direction. For these net sections, the stretched length of any single mesh must be at least 7.9 ft (240 cm), measured in a straight line from knot to knot.

(iii) Mesh size in all other sections must be consistent with mesh size requirements specified under § 648.80 and meet the following minimum specifications: Each mesh in the square, square side panels, and second bottom belly must be 31.5 inches (80 cm); each mesh in the first top belly, and first belly side panels must be at least 7.9 inches (20 cm); and 6 inches (15.24 cm) or larger in sections following the first top belly and second bottom belly sections, all the way to the codend. The mesh size requirements of the top sections apply to the side panel sections.

(iv) The trawl must have at least 15 meshes (240 cm each) at the wide end of the first bottom belly, excluding the gore.

(v) The trawl must have a single or multiple kite panels with a total surface area of at least 19.3 sq. ft. (1.8 sq. m) on the forward end of the square to help maximize headrope height, for the purpose of capturing rising fish. A kite panel is a flat structure, usually semi-flexible, used to modify the shape of trawl and mesh openings by providing lift when a trawl is moving through the water.

* * * * *

11. In § 648.86, revise paragraph (c) to read as follows:

§ 648.86 NE Multispecies possession restrictions.

* * * *

(c) Atlantic halibut. A vessel issued a NE multispecies permit under § 648.4(a)(1) may land or possess on board no more than one Atlantic halibut per trip, provided the vessel complies with other applicable provisions of this part, unless otherwise specified in § 648.90(a)(5)(i)(D)(2).

12. In § 648.87, revise paragraph (c)(2)(i) to read as follows:

§ 648.87. Sector allocation.

* * * * *

(c) * * *

(2) * * *

(i) Regulations that may not be exempted for sector participants. The Regional Administrator may not exempt participants in a sector from the following Federal fishing regulations: NE multispecies year-round closure areas; permitting restrictions (e.g., vessel upgrades, etc.); gear restrictions designed to minimize habitat impacts (e.g., roller gear restrictions, etc.); reporting requirements; and AMs specified at § 648.90(a)(5)(i)(D). For the purposes of this paragraph (c)(2)(i), the DAS reporting requirements specified at § 648.82; the SAP-specific reporting requirements specified at § 648.85; and the reporting requirements associated with a dockside monitoring program specified in paragraph (b)(5)(i) of this section are not considered reporting requirements, and the Regional Administrator may exempt sector

participants from these requirements as part of the approval of yearly operations plans. This list may be modified through a framework adjustment, as specified in § 648.90.

* * * * *

13. In § 648.89, revise paragraphs (e)(1) and (e)(3)(ii) to read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

* * * * *

(e) Charter/party vessel restrictions on fishing in GOM closed areas and the Nantucket Lightship Closed Area —(1) GOM Closed Areas. Unless otherwise specified in this paragraph (e)(1), a vessel fishing under charter/party regulations may not fish in the GOM closed areas specified at § 648.81(d)(1) through (f)(1) during the time periods specified in those paragraphs, unless the vessel has on board a valid letter of authorization issued by the Regional Administrator pursuant to § 648.81(f)(2)(iii) and paragraph (e)(3) of this section. The conditions and restrictions of the letter of authorization must be complied with for a minimum of 3 months if the vessel fishes or intends to fish in the seasonal GOM closure areas; or for the rest of the fishing year, beginning with the start of the participation period of the letter of authorization, if the vessel fishes or intends to fish in the year-round GOM closure areas. A vessel fishing under charter/party regulations may not fish in the GOM Cod Spawning Protection Area specified at § 648.81(n)(1) during the time period specified in that paragraph, unless the vessel complies with the requirements specified at § 648.81(n)(2)(iii).

* * * * *

(3) * * *

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

* * * * *

14. In § 648.90, revise paragraph (a)(4)(iii)(C) and add paragraphs (a)(5)(i)(D), (a)(5)(i)(E), and (a)(5)(iv) to read as follows:

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

* * * * *

(a) * * *

(4) * * *

(iii) * * *

(C) Yellowtail flounder catch by the Atlantic sea scallop fishery. Yellowtail flounder catch in the Atlantic sea scallop fishery, as defined in subpart D, shall be deducted from the ABC/ACL for each yellowtail flounder stock pursuant to the restrictions specified in subpart D of this part and the process to specify ABCs and ACLs, as described in paragraph (a)(4) of this section. Unless otherwise specified in this paragraph (a)(4)(iii)(C), or subpart D of this part, the specific value of the sub-components of the ABC/ACL for each stock of yellowtail flounder distributed to the Atlantic sea scallop fishery shall be specified pursuant to the biennial adjustment process specified in paragraph (a)(2) of this section. Based on information available, NMFS shall re-estimate the expected scallop fishery catch of GB yellowtail flounder for the current fishing year by January 15. If NMFS determines that the scallop fishery will catch less than 90 percent of its GB yellowtail flounder sub-ACL, the Regional Administrator may reduce

the scallop fishery sub-ACL to the amount projected to be caught, and increase the groundfish fishery sub-ACL by any amount up to the amount reduced from the scallop fishery sub-ACL. The revised groundfish fishery sub-ACL shall be distributed to the common pool and sectors based on the process specified in paragraph (a)(4)(E)(1) of this section.

* * * * *

(5) * * *

(i) * * *

(D) AMs for both stocks of windowpane flounder, ocean pout, and Atlantic halibut. At the end of each fishing year, NMFS shall determine if the overall ACL for northern windowpane flounder, southern windowpane flounder, ocean pout, or Atlantic halibut was exceeded. If the overall ACL for any of these stocks is exceeded, NMFS shall implement the appropriate AM, as specified in this paragraph (a)(5)(i)(D), in the second fishing year after the fishing year in which the overage occurred, consistent with the Administrative Procedure Act. For example, if NMFS determined the overall ACL for northern windowpane flounder was exceeded in fishing year 2012, the applicable AM would be implemented for fishing year 2014.

(1) Windowpane flounder and ocean pout. If NMFS determines the overall ACL for either stock of windowpane flounder or ocean pout is exceeded, as described in this paragraph (a)(5)(i)(D)(1), by any amount between the management uncertainty buffer and 20 percent, the applicable small AM area for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section. If the overall ACL is exceeded by 21 percent or more, the applicable large AM area for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section. Any vessel issued a limited access NE multispecies permit and fishing with trawl gear

in these areas may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(3); a rope separator trawl, as specified in § 648.81(n)(3)(i)(A); or any other gear approved consistent with the process defined in § 648.85(b)(6). If a sub-ACL for either stock of windowpane flounder or ocean pout is allocated to another fishery, consistent with the process specified at § 648.90(a)(4), and AMs are developed for that fishery, the groundfish fishery AM shall only be implemented if the sub-ACL allocated to the groundfish fishery is exceeded (i.e., the sector and common pool catch for a particular stock, including the common pool's share of any overage of the overall ACL caused by excessive catch by other sub-components of the fishery pursuant to § 648.90(a)(5) exceeds the common pool sub-ACL) and the overall ACL is also exceeded.

Northern Windowpane Flounder and Ocean Pout Small AM Areas

Point	N. Latitude	W. Longitude
NWS1	41° 10'	67° 40'
NWS2	41° 10'	67° 20'
NWS3	41° 00'	67° 20'
NWS4	41° 00'	67° 00'
NWS5	40° 50'	67° 00'
NWS6	40° 50'	67° 40'

Northern Windowpane Flounder and Ocean Pout Large AM Areas

Point	N. Latitude	W. Longitude
NWL1	42° 10'	67° 40'
NWL2	42° 10'	67° 20'
NWL3	41° 00'	67° 20'
NWL4	41° 00'	67° 00'
NWL5	40° 50'	67° 00'
NWL6	40° 50'	67° 40'

Southern Windowpane Flounder and Ocean Pout Small AM Areas

Point	N. Latitude	W. Longitude
SWS1	41° 10'	71° 30'

SWS2	41° 10’	71° 20’
SWS3	40° 50’	71° 20’
SWS4	50° 50’	71° 30’

Southern Windowpane Flounder and Ocean Pout Large AM Areas

Point	N. Latitude	W. Longitude
SWL1	41° 10’	71° 50’
SWL2	41° 10’	71° 10’
SWL3	41° 00’	71° 10’
SWL4	41° 00’	71° 20’
SWL5	40° 50’	71° 20’
SWL6	40° 50’	71° 50’

Point	N. Latitude	W. Longitude
SWL1	NY Coast	73° 30’
SWL2	40° 30’	73° 30’
SWL3	40° 30’	73° 50’
SWL4	40° 20’	73° 50’
SWL5	NJ Coast	73° 50’
SWL6	NY Coast	73° 50’

(2) Atlantic halibut. If NMFS determines the overall ACL is exceeded for Atlantic halibut, any vessel issued a limited access NE multispecies permit, an open access NE multispecies Handgear B permit, an open access NE multispecies Category K permit, or a limited access monkfish permit and fishing under the monkfish Category C or D permit provisions, may not fish for, possess, or land Atlantic halibut for the fishing year in which the AM is implemented as specified in paragraph (a)(5)(i)(D) of this section.

(E) AMs for SNE/MA winter flounder and Atlantic wolffish. A vessel issued a limited access NE multispecies permit, an open access NE multispecies Handgear B permit, an open access NE multispecies charter/party permit, or a limited access monkfish permit and fishing under the monkfish Category C or D permit provisions may not fish for, possess, or land

SNE/MA winter flounder, as specified in § 648.86(l), as a proactive AM to prevent the overall ACL for these stocks from being exceeded.

* * * * *

(iv) AMs if the sub-ACL for the Atlantic sea scallop fishery is exceeded. At the end of the scallop fishing year, NMFS shall evaluate Atlantic sea scallop fishery catch to determine whether a scallop fishery sub-ACL has been exceeded. On January 15, or when information is available to make an accurate projection, NMFS will also determine whether the overall ACL for each stock allocated to the scallop fishery has been exceeded. When evaluating whether the overall ACL has been exceeded, NMFS will add the maximum carryover available to sectors, as specified at § 648.87(b)(1)(i)(C), to the estimate of total catch for the pertinent stock. If catch by scallop vessels exceeds the pertinent sub-ACL specified in paragraph (a)(4)(iii)(C) of this section by 50 percent or more, or if scallop catch exceeds the scallop fishery sub-ACL and the overall ACL for that stock is also exceeded, then the applicable scallop fishery AM shall take effect, as specified in §648.64 of the Atlantic sea scallop regulations.

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