

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

[Docket No. 151211999–6343–02]

RIN 0648–BF62

## Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Groundfish Fishery; Framework Adjustment 55

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

**ACTION:** Final rule.

**SUMMARY:** This final rule approves and implements Framework Adjustment 55 to the Northeast Multispecies Fishery Management Plan. This rule sets 2016–2018 catch limits for all 20 groundfish stocks, adjusts the groundfish at-sea monitoring program, and adopts several sector measures. This action is necessary to respond to updated scientific information and achieve the goals and objectives of the Fishery Management Plan. The final measures are intended to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that management measures are based on the best scientific information available.

**DATES:** Effective on May 1, 2016, except for the amendment to § 648.85(a)(3)(iii)(A), which is effective October 31, 2016.

**ADDRESSES:** Copies of Framework Adjustment 55, including the Environmental Assessment, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis prepared in support of the proposed rule are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents are also accessible via the Internet at: <http://www.nefmc.org/management-plans/northeast-multispecies> or <http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies>.

Copies of each sector's final operations plan and contract, and the Fishing Year 2015–2020 Northeast Multispecies Sector Operations Plans and Contracts Programmatic Environmental Assessment, are available from the NMFS Greater Atlantic Regional Fisheries Office: John K. Bullard, Regional Administrator,

National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. These documents are also accessible via the Federal eRulemaking Portal: <http://www.regulations.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930, and by email to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or fax to 202–395–7285.

**FOR FURTHER INFORMATION CONTACT:** Aja Szumylo, Fishery Policy Analyst, phone: 978–281–9195; email: [Aja.Szumylo@noaa.gov](mailto:Aja.Szumylo@noaa.gov).

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**1. Summary of Approved Measures**

This action approves and implements the management measures in Framework Adjustment 55 to the Northeast Multispecies Fishery Management Plan (FMP). The measures implemented in this final rule include:

- 2016–2018 specifications for all 20 groundfish stocks;
- 2016 shared U.S./Canada quotas for Georges Bank (GB) yellowtail flounder and Eastern GB cod and haddock;
- Modifications to the industry-funded sector at-sea monitoring program;
- Approval of a new sector;
- Modifications to the sector approval process;
- Adjustments to selective trawl gear requirements;
- Removal of the Gulf of Maine (GOM) cod prohibition for recreational anglers; and
- A mechanism for sectors to transfer GB cod quota from the Eastern U.S./Canada Area to the western area.

This action also implements a number of other measures that are not part of Framework 55, but that were considered under our authority specified in the

Northeast Multispecies FMP. We are including these measures in Framework 55 for expediency purposes, and because these measures are related to the catch limits implemented in Framework 55. The additional measures implemented in this action are:

- *Management measures necessary to implement sector operations plans*—this action approves one new sector regulatory exemption and annual catch entitlements for 19 sectors for the 2016 fishing year.

- *Management measures for the common pool fishery*—this action implements initial 2016 fishing year trip limits for the common pool fishery.

- *Other regulatory corrections*—this action makes several administrative revisions to the regulations to clarify their intent, correct references, remove unnecessary text, and make other minor edits. Each correction is described in section “10. Regulatory Corrections Under Regional Administrator Authority.”

**2. Status Determination Criteria**

The Northeast Fisheries Science Center (NEFSC) conducted operational stock assessment updates in 2015 for all 20 groundfish stocks. The final report for the operational assessment updates is available at: <http://www.nefsc.noaa.gov/groundfish/operational-assessments-2015/>. This action revises status determination criteria, as necessary, and provides updated numerical estimates of these criteria, in order to incorporate the results of the 2015 stock assessments. Table 1 provides the updated numerical estimates of the status determination criteria, and Table 2 summarizes changes in stock status based on the 2015 assessment updates. Stock status did not change for 15 of the 20 stocks, worsened for 2 stocks (Southern New England/Mid-Atlantic (SNE/MA) yellowtail flounder and GB winter flounder), improved for 1 stock (Northern windowpane flounder), and became more uncertain for 2 stocks (GB cod and Atlantic halibut).

Status determination relative to reference points is no longer possible for GB cod and Atlantic halibut. The assessment peer review panel determined that available information for both stocks indicates they are still in poor condition and that stock size has not increased. Therefore, the panel recommended the status remain overfished for both stocks, consistent with the information from previous assessments. However, in the absence of fishing mortality estimates to compare to overfishing reference points, the

panel recommended that the overfishing status be unknown for both stocks.

Although the review panel concluded that the overfishing status should be unknown for GB cod and halibut, the final NMFS determinations for these stocks are different from the review panel's recommendations. NMFS has developed a national approach to addressing common status determination situations for the purposes of completing the annual report to Congress on the Status of U.S. Fisheries and the Fisheries Stock Sustainability Index. For cases like GB cod and Atlantic halibut, where the stock assessment update is not accepted by the peer review process, NMFS bases the status determination on the most recent accepted assessment. Based on this approach, the stock status for GB cod will remain overfished, with overfishing occurring, consistent with the determination from the 2013 GB cod benchmark assessment. The status for Atlantic halibut will remain overfished, with overfishing not occurring, consistent with the 2012 assessment update for this stock. These status determinations will remain until an assessment can provide new reference points and/or numerical estimates of existing status determination criteria.

The numerical estimates for the status determination criteria for both stocks is still not available based on the results of the 2015 assessment updates, as reflected in Table 1. In the draft Framework 55 EA available to the Council when selecting preferred alternatives and taking final action, numerical estimates were not provided consistent with these results. However, following initial submission of Framework 55 to NFMS for review, and after the close of the public comment period on the proposed rule (81 FR 15003; March 21, 2016) and analysis, the Council changed the numerical estimates provided in the document to those from the previous 2013 GB cod assessment. Presumably, this change was made to provide estimates consistent with the assessment review panel's recommendation that the previous assessment is the best scientific information available for determining stock status. However, this change to the document was made after the Council took final action on Framework 55, and after close of the public comment period on the proposed rule and analysis, and is not consistent with our standard approach for developing numerical estimates for

status determination criteria. When the stock assessment is not accepted, NMFS retains the status determination from the previous assessment because there are no new, or updated, numerical estimates of status determination criteria available to reliably evaluate whether stock status has changed. However, NMFS does not consider the numerical estimates of the status determination criteria from the previous assessment valid because the assessment update was not accepted.

The stock status changes for GB cod and halibut do not affect the rebuilding plans for these stocks. The rebuilding plan for GB cod has an end date of 2026, and the rebuilding plan for halibut has an end date of 2056. Although numerical estimates of status determination criteria are currently not available, to ensure that rebuilding progress is made, catch limits will continue to be set at levels that the Council's Scientific and Statistical Committee (SSC) determines will prevent overfishing. Additionally, at whatever point the stock assessment for GB cod and halibut can provide biomass estimates, these estimates will be used to evaluate progress towards the rebuilding targets.

TABLE 1—NUMERICAL ESTIMATES OF STATUS DETERMINATION CRITERIA

| Stock                              | Biomass target<br>(mt)<br>(SSB <sub>MSY</sub> or proxy) | Maximum fishing mortality<br>threshold<br>(F <sub>MSY</sub> or proxy) | MSY<br>(mt) |
|------------------------------------|---|---|-------------|
| GB Cod .....                       | NA .....  | NA .....  | NA          |
| GOM Cod:                           |   |   |             |
| M = 0.2 Model .....                | 40,187 .....  | 0.185 .....   | 6,797       |
| M <sub>ramp</sub> Model .....      | 59,045 .....  | 0.187 .....   | 10,043      |
| GB Haddock .....                   | 108,300 .....   | 0.39 .....  | 24,900      |
| GOM Haddock .....                  | 4,623 .....   | 0.468 .....   | 1,083       |
| GB Yellowtail Flounder .....       | NA .....  | NA .....  | NA          |
| SNE/MA Yellowtail Flounder .....   | 1,959 .....   | 0.35 .....  | 541         |
| CC/GOM Yellowtail Flounder .....   | 5,259 .....   | 0.279 .....   | 1,285       |
| American Plaice .....              | 13,107 .....  | 0.196 .....   | 2,675       |
| Witch Flounder .....               | 9,473 .....   | 0.279 .....   | 1,957       |
| GB Winter Flounder .....           | 6,700 .....   | 0.536 .....   | 2,840       |
| GOM Winter Flounder .....          | NA .....  | 0.23 (exploitation rate) .....  | NA          |
| SNE/MA Winter Flounder .....       | 26,928 .....  | 0.325 .....   | 7,831       |
| Acadian Redfish .....              | 281,112 .....   | 0.038 .....   | 10,466      |
| White Hake .....                   | 32,550 .....  | 0.188 .....   | 5,422       |
| Pollock .....                      | 105,226 .....   | 0.277 .....   | 19,678      |
| Northern Windowpane Flounder ..... | 1.554 kg/tow .....                                      | 0.45 .....  | 700         |
| Southern Windowpane Flounder ..... | 0.247 kg/tow .....                                      | 2.027 .....   | 500         |
| Ocean Pout .....                   | 4.94 kg/tow .....                                       | 0.76 .....  | 3,754       |
| Atlantic Halibut .....             | NA .....  | NA .....  | NA          |
| Atlantic Wolffish .....            | 1,663 .....   | 0.243 .....   | 244         |

SSB = Spawning Stock Biomass; MSY = Maximum Sustainable Yield; F = Fishing Mortality; M = Natural Mortality; GOM = Gulf of Maine; SNE = Southern New England; MA = Mid-Atlantic; CC = Cape Cod.

**Note.** A brief explanation of the two assessment models for GOM cod is provided in section "4. Catch Limits for the 2016–2018 Fishing Years."

TABLE 2—SUMMARY OF CHANGES TO STOCK STATUS

| Stock                              | Previous assessment |               | 2015 assessment |             |
|------------------------------------|---------------------|---------------|-----------------|-------------|
|                                    | Overfishing?        | Overfished?   | Overfishing?    | Overfished? |
| GB Cod .....                       | Yes .....           | Yes .....     | Yes .....       | Yes.        |
| GOM Cod .....                      | Yes .....           | Yes .....     | Yes .....       | Yes.        |
| GB Haddock .....                   | No .....            | No .....      | No .....        | No.         |
| GOM Haddock .....                  | No .....            | No .....      | No .....        | No.         |
| GB Yellowtail Flounder .....       | Unknown .....       | Unknown ..... | Unknown .....   | Unknown.    |
| SNE/MA Yellowtail Flounder .....   | No .....            | No .....      | Yes .....       | Yes.        |
| CC/GOM Yellowtail Flounder .....   | Yes .....           | Yes .....     | Yes .....       | Yes.        |
| American Plaice .....              | No .....            | No .....      | No .....        | No.         |
| Witch Flounder .....               | Yes .....           | Yes .....     | Yes .....       | Yes.        |
| GB Winter Flounder .....           | No .....            | No .....      | Yes .....       | Yes.        |
| GOM Winter Flounder .....          | No .....            | Unknown ..... | No .....        | Unknown.    |
| SNE/MA Winter Flounder .....       | No .....            | Yes .....     | No .....        | Yes.        |
| Acadian Redfish .....              | No .....            | No .....      | No .....        | No.         |
| White Hake .....                   | No .....            | No .....      | No .....        | No.         |
| Pollock .....                      | No .....            | No .....      | No .....        | No.         |
| Northern Windowpane Flounder ..... | Yes .....           | Yes .....     | No .....        | Yes.        |
| Southern Windowpane Flounder ..... | No .....            | No .....      | No .....        | No.         |
| Ocean Pout .....                   | No .....            | Yes .....     | No .....        | Yes.        |
| Atlantic Halibut .....             | No .....            | Yes .....     | No .....        | Yes.        |
| Atlantic Wolffish .....            | No .....            | Yes .....     | No .....        | Yes.        |

### 3. 2016 Fishing Year U.S./Canada Quotas

#### Management of Transboundary Georges Bank Stocks

As described in the proposed rule, eastern GB cod, eastern GB haddock, and GB yellowtail flounder are jointly

managed with Canada under the United States/Canada Resource Sharing Understanding. This action adopts shared U.S./Canada quotas for these stocks for fishing year 2016 based on 2015 assessments and the recommendations of the Transboundary Management Guidance Committee

(TMGC) (Table 3). For a more detailed discussion of the TMGC's 2016 catch advice, see the TMGC's guidance document at: <http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/index.html>.

TABLE 3—2016 FISHING YEAR U.S./CANADA QUOTAS (MT, LIVE WEIGHT) AND PERCENT OF QUOTA ALLOCATED TO EACH COUNTRY

| Quota                    | Eastern GB cod | Eastern GB haddock | GB yellowtail flounder |
|--------------------------|----------------|--------------------|------------------------|
| Total Shared Quota ..... | 625            | 37,000             | 354                    |
| U.S. Quota .....         | 138 (22%)      | 15,170 (41%)       | 269 (76%)              |
| Canada Quota .....       | 487 (78%)      | 21,830 (59%)       | 85 (24%)               |

The regulations implementing the U.S./Canada Resource Sharing Understanding require that any overages of the U.S. quota for eastern GB cod, eastern GB haddock, or GB yellowtail flounder be deducted from the U.S. quota in the following fishing year. If catch information for the 2015 fishing year indicates that the U.S. fishery exceeded its quota for any of the shared stocks, we will reduce the respective U.S. quotas for the 2016 fishing year in a future management action, as close to May 1, 2016, as possible. If any fishery that is allocated a portion of the U.S. quota exceeds its allocation and causes an overage of the overall U.S. quota, the overage reduction would only be applied to that fishery's allocation in the following fishing year. This ensures that catch by one component of the fishery does not negatively affect another component of the fishery.

### 4. Catch Limits for the 2016–2018 Fishing Years

#### Summary of Catch Limits

This action adopts catch limits for all 20 groundfish stocks for the 2016–2018 fishing years based on the 2015 operational assessment updates. Catch limit increases are adopted for 10 stocks; however, for a number of stocks, the catch limits adopted in this action are substantially lower than the catch limits set for the 2015 fishing year (with decreases ranging from 14 to 67 percent). The catch limits implemented in this action, including overfishing limits (OFLs), acceptable biological catches (ABCs), and annual catch limits (ACLs), can be found in Tables 4 through 11. A summary of how these catch limits were developed, including the distribution to the various fishery components, was provided in the

proposed rule and is not repeated here. Additional information on the development of these catch limits is also provided in the Framework 55 EA and its supporting appendices. We have adjusted the groundfish sub-ACL for GB cod for 2017 and 2018 in Tables 6 and 7 to correct a transcription error in the proposed rule. The sub-ACL for 2017 and 2018 was incorrectly listed as 608 mt, but should have been listed as 997 mt. Although the 2017 and 2018 groundfish sub-ACL was listed incorrectly, the components of the groundfish sub-ACL, namely the preliminary sector sub-ACL (975 mt) and the preliminary common pool sub-ACL (22 mt), were correct in the proposed rule.

The sector and common pool catch limits implemented in this action are based on potential sector contributions for fishing year 2016 and fishing year

2015 sector rosters. 2016 sector rosters will not be finalized until May 1, 2016, because individual permit holders have until the end of the 2015 fishing year (April 30, 2016) to drop out of a sector and fish in the common pool fishery for

2016. Therefore, it is possible that the sector and common pool catch limits in this action may change due to changes in the sector rosters. If changes to the sector rosters occur, updated catch limits will be announced as soon as

possible in the 2016 fishing year to reflect the final sector rosters as of May 1, 2016. Sector-specific allocations for each stock can be found in section "8. Sector Administrative Measures."

**TABLE 4—FISHING YEARS 2016–2018 OVERFISHING LIMITS AND ACCEPTABLE BIOLOGICAL CATCHES (MT, LIVE WEIGHT)**  
[Total ABC provided for 2016 to show limit prior To deduction of Canadian catch for GB Cod, GB haddock, GB yellowtail flounder, GB winter flounder, white hake, and Atlantic halibut]

| Stock                            | 2016    |           |          | 2017    |          | 2018    |          |
|----------------------------------|---------|-----------|----------|---------|----------|---------|----------|
|                                  | OFL     | Total ABC | U.S. ABC | OFL     | U.S. ABC | OFL     | U.S. ABC |
| GB Cod .....                     | 1,665   | 1,249     | 762      | 1,665   | 1,249    | 1,665   | 1,249    |
| GOM Cod .....                    | 667     | 500       | 500      | 667     | 500      | 667     | 500      |
| GB Haddock .....                 | 160,385 | 77,898    | 56,068   | 258,691 | 48,398   | 358,077 | 77,898   |
| GOM Haddock .....                | 4,717   | 3,630     | 3,630    | 5,873   | 4,534    | 6,218   | 4,815    |
| GB Yellowtail Flounder .....     | Unk     | 354       | 269      | Unk     | 354      | .....   | .....    |
| SNE/MA Yellowtail Flounder ..... | Unk     | 267       | 267      | Unk     | 267      | Unk     | 267      |
| CC/GOM Yellowtail Flounder ..... | 555     | 427       | 427      | 707     | 427      | 900     | 427      |
| American Plaice .....            | 1,695   | 1,297     | 1,297    | 1,748   | 1,336    | 1,840   | 1,404    |
| Witch Flounder .....             | 521     | 460       | 460      | 732     | 460      | 954     | 460      |
| GB Winter Flounder .....         | 957     | 755       | 668      | 1,056   | 668      | 1,459   | 668      |
| GOM Winter Flounder .....        | 1,080   | 810       | 810      | 1,080   | 810      | 1,080   | 810      |
| SNE/MA Winter Flounder .....     | 1,041   | 780       | 780      | 1,021   | 780      | 1,587   | 780      |
| Redfish .....                    | 13,723  | 10,338    | 10,338   | 14,665  | 11,050   | 15,260  | 11,501   |
| White Hake .....                 | 4,985   | 3,816     | 3,754    | 4,816   | 3,624    | 4,733   | 3,560    |
| Pollock .....                    | 27,668  | 21,312    | 21,312   | 32,004  | 21,312   | 34,745  | 21,312   |
| N. Windowpane Flounder .....     | 243     | 182       | 182      | 243     | 182      | 243     | 182      |
| S. Windowpane Flounder .....     | 833     | 623       | 623      | 833     | 623      | 833     | 623      |
| Ocean Pout .....                 | 220     | 165       | 165      | 220     | 165      | 220     | 165      |
| Atlantic Halibut .....           | 210     | 158       | 124      | 210     | 124      | 210     | 124      |
| Atlantic Wolffish .....          | 110     | 82        | 82       | 110     | 82       | 110     | 82       |

Unk = Unknown; CC = Cape Cod; N = Northern; S = Southern.

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

**TABLE 5—FISHING YEAR 2016 CATCH LIMITS**  
[mt, live weight]

| Stock                            | Total ACL | Total groundfish fishery | Preliminary sector | Preliminary common pool | Recreational fishery | Midwater trawl fishery | Scallop fishery | Small-mesh fisheries | State waters sub-component | Other sub-component |
|----------------------------------|-----------|--------------------------|--------------------|-------------------------|----------------------|------------------------|-----------------|----------------------|----------------------------|---------------------|
| GB Cod .....                     | 730       | 608                      | 595                | 13                      | .....                | .....                  | .....           | .....                | 23                         | 99                  |
| GOM Cod .....                    | 473       | 437                      | 273                | 8                       | 157                  | .....                  | .....           | .....                | 27                         | 10                  |
| GB Haddock .....                 | 53,309    | 51,667                   | 51,209             | 458                     | .....                | 521                    | .....           | .....                | 561                        | 561                 |
| GOM Haddock ..                   | 3,430     | 3,344                    | 2,385              | 31                      | 928                  | 34                     | .....           | .....                | 26                         | 26                  |
| GB Yellowtail Flounder .....     | 261       | 211                      | 207                | 4                       | .....                | .....                  | 42              | 5                    | NA                         | 3                   |
| SNE/MA Yellowtail Flounder ..... | 255       | 182                      | 145                | 37                      | .....                | .....                  | 39              | .....                | 5                          | 29                  |
| CC/GOM Yellowtail Flounder ..... | 409       | 341                      | 325                | 16                      | .....                | .....                  | .....           | .....                | 43                         | 26                  |
| American Plaice .....            | 1,235     | 1,183                    | 1,160              | 23                      | .....                | .....                  | .....           | .....                | 26                         | 26                  |
| Witch Flounder ..                | 441       | 370                      | 361                | 8                       | .....                | .....                  | .....           | .....                | 12                         | 59                  |
| GB Winter Flounder .....         | 650       | 590                      | 584                | 6                       | .....                | .....                  | .....           | .....                | NA                         | 60                  |
| GOM Winter Flounder .....        | 776       | 639                      | 604                | 35                      | .....                | .....                  | .....           | .....                | 122                        | 16                  |
| SNE/MA Winter Flounder .....     | 749       | 585                      | 514                | 71                      | .....                | .....                  | .....           | .....                | 70                         | 94                  |
| Redfish .....                    | 9,837     | 9,526                    | 9,471              | 55                      | .....                | .....                  | .....           | .....                | 103                        | 207                 |
| White Hake .....                 | 3,572     | 3,459                    | 3,434              | 25                      | .....                | .....                  | .....           | .....                | 38                         | 75                  |
| Pollock .....                    | 20,374    | 17,817                   | 17,705             | 112                     | .....                | .....                  | .....           | .....                | 1,279                      | 1,279               |
| N. Windowpane Flounder .....     | 177       | 66                       | na                 | 66                      | .....                | .....                  | .....           | .....                | 2                          | 109                 |
| S. Windowpane Flounder .....     | 599       | 104                      | na                 | 104                     | .....                | .....                  | 209             | .....                | 37                         | 249                 |
| Ocean Pout .....                 | 155       | 137                      | na                 | 137                     | .....                | .....                  | .....           | .....                | 2                          | 17                  |
| Atlantic Halibut ..              | 119       | 91                       | na                 | 91                      | .....                | .....                  | .....           | .....                | 25                         | 4                   |
| Atlantic Wolffish .....          | 77        | 72                       | na                 | 72                      | .....                | .....                  | .....           | .....                | 1                          | 3                   |

TABLE 6—FISHING YEAR 2017 CATCH LIMITS  
[mt, live weight]

| Stock                                  | Total ACL | Total groundfish fishery | Preliminary sector | Preliminary common pool | Recreational fishery | Midwater trawl fishery | Scallop fishery | Small-mesh fisheries | State waters sub-component | Other sub-component |
|--|-----------|--------------------------|--------------------|-------------------------|----------------------|------------------------|-----------------|----------------------|----------------------------|---------------------|
| GB Cod .....                           | 1,197     | 997                      | 975                | 22                      | .....                | .....                  | .....           | .....                | 37                         | 162                 |
| GOM Cod .....                          | 473       | 437                      | 273                | 8                       | 157                  | .....                  | .....           | .....                | 27                         | 10                  |
| GB Haddock .....                       | 46,017    | 44,599                   | 44,204             | 395                     | .....                | 450                    | .....           | .....                | 484                        | 484                 |
| GOM Haddock ..                         | 4,285     | 4,177                    | 2,979              | 39                      | 1,160                | 42                     | .....           | .....                | 33                         | 33                  |
| GB Yellowtail<br>Flounder .....        | 343       | 278                      | 273                | 5                       | .....                | .....                  | 55              | 7                    | NA                         | 4                   |
| SNE/MA<br>Yellowtail<br>Flounder ..... | 255       | 187                      | 145                | 37                      | .....                | .....                  | 39              | .....                | 5                          | 29                  |
| CC/GOM<br>Yellowtail<br>Flounder ..... | 409       | 341                      | 325                | 16                      | .....                | .....                  | .....           | .....                | 43                         | 26                  |
| American Plaice                        | 1,272     | 1,218                    | 1,195              | 23                      | .....                | .....                  | .....           | .....                | 27                         | 27                  |
| Witch Flounder ..                      | 441       | 370                      | 361                | 8                       | .....                | .....                  | .....           | .....                | 12                         | 59                  |
| GB Winter<br>Flounder .....            | 650       | 590                      | 584                | 6                       | .....                | .....                  | .....           | .....                | NA                         | 60                  |
| GOM Winter<br>Flounder .....           | 776       | 639                      | 604                | 35                      | .....                | .....                  | .....           | .....                | 122                        | 16                  |
| SNE/MA Winter<br>Flounder .....        | 749       | 585                      | 514                | 71                      | .....                | .....                  | .....           | .....                | 70                         | 94                  |
| Redfish .....                          | 10,514    | 10,183                   | 10,124             | 59                      | .....                | .....                  | .....           | .....                | 111                        | 221                 |
| White Hake .....                       | 3,448     | 3,340                    | 3,315              | 24                      | .....                | .....                  | .....           | .....                | 36                         | 72                  |
| Pollock .....                          | 20,374    | 17,817                   | 17,705             | 112                     | .....                | .....                  | .....           | .....                | 1,279                      | 1,279               |
| N. Windowpane<br>Flounder .....        | 177       | 66                       | na                 | 66                      | .....                | .....                  | .....           | .....                | 2                          | 109                 |
| S. Windowpane<br>Flounder .....        | 599       | 104                      | na                 | 104                     | .....                | .....                  | 209             | .....                | 37                         | 249                 |
| Ocean Pout .....                       | 155       | 137                      | na                 | 137                     | .....                | .....                  | .....           | .....                | 2                          | 17                  |
| Atlantic Halibut ..                    | 119       | 91                       | na                 | 91                      | .....                | .....                  | .....           | .....                | 25                         | 4                   |
| Atlantic Wolffish                      | 77        | 72                       | na                 | 72                      | .....                | .....                  | .....           | .....                | 1                          | 3                   |

TABLE 7—FISHING YEAR 2018 CATCH LIMITS  
[mt, live weight]

| Stock                                  | Total ACL | Total groundfish fishery | Preliminary sector | Preliminary common pool | Recreational fishery | Midwater trawl fishery | Scallop fishery | Small-mesh fisheries | State waters sub-component | Other sub-component |
|--|-----------|--------------------------|--------------------|-------------------------|----------------------|------------------------|-----------------|----------------------|----------------------------|---------------------|
| GB Cod .....                           | 1,197     | 997                      | 975                | 22                      | .....                | .....                  | .....           | .....                | 37                         | 162                 |
| GOM Cod .....                          | 473       | 437                      | 273                | 8                       | 157                  | .....                  | .....           | .....                | 27                         | 10                  |
| GB Haddock .....                       | 74,065    | 71,783                   | 71,147             | 636                     | .....                | 724                    | .....           | .....                | 779                        | 779                 |
| GOM Haddock ..                         | 4,550     | 4,436                    | 3,163              | 39                      | 1,231                | 45                     | .....           | .....                | 35                         | 35                  |
| GB Yellowtail<br>Flounder .....        | .....     | .....                    | .....              | .....                   | .....                | .....                  | .....           | .....                | .....                      | .....               |
| SNE/MA<br>Yellowtail<br>Flounder ..... | 255       | 179                      | 142                | 37                      | .....                | .....                  | 38              | .....                | 5                          | 29                  |
| CC/GOM<br>Yellowtail<br>Flounder ..... | 409       | 341                      | 325                | 16                      | .....                | .....                  | .....           | .....                | 43                         | 26                  |
| American Plaice                        | 1,337     | 1,280                    | 1,256              | 24                      | .....                | .....                  | .....           | .....                | 28                         | 28                  |
| Witch Flounder ..                      | 441       | 370                      | 361                | 8                       | .....                | .....                  | .....           | .....                | 12                         | 59                  |
| GB Winter<br>Flounder .....            | 650       | 590                      | 584                | 6                       | .....                | .....                  | .....           | .....                | NA                         | 60                  |
| GOM Winter<br>Flounder .....           | 776       | 639                      | 604                | 35                      | .....                | .....                  | .....           | .....                | 122                        | 16                  |
| SNE/MA Winter<br>Flounder .....        | 749       | 585                      | 514                | 71                      | .....                | .....                  | .....           | .....                | 70                         | 94                  |
| Redfish .....                          | 10,943    | 10,598                   | 10,537             | 61                      | .....                | .....                  | .....           | .....                | 115                        | 230                 |
| White Hake .....                       | 3,387     | 3,281                    | 3,257              | 24                      | .....                | .....                  | .....           | .....                | 36                         | 71                  |
| Pollock .....                          | 20,374    | 17,817                   | 17,705             | 112                     | .....                | .....                  | .....           | .....                | 1,279                      | 1,279               |
| N. Windowpane<br>Flounder .....        | 177       | 66                       | na                 | 66                      | .....                | .....                  | .....           | .....                | 2                          | 109                 |
| S. Windowpane<br>Flounder .....        | 599       | 104                      | na                 | 104                     | .....                | .....                  | 209             | .....                | 37                         | 249                 |
| Ocean Pout .....                       | 155       | 137                      | na                 | 137                     | .....                | .....                  | .....           | .....                | 2                          | 17                  |
| Atlantic Halibut ..                    | 119       | 91                       | na                 | 91                      | .....                | .....                  | .....           | .....                | 25                         | 4                   |
| Atlantic Wolffish                      | 77        | 72                       | na                 | 72                      | .....                | .....                  | .....           | .....                | 1                          | 3                   |

TABLE 8—COMMON POOL TRIMESTER TOTAL ALLOWABLE CATCHES FOR FISHING YEARS 2016–2018  
[mt, live weight]

| Stock                            | 2016        |             |             | 2017        |             |             | 2018        |             |             |
|----------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
|                                  | Trimester 1 | Trimester 2 | Trimester 3 | Trimester 1 | Trimester 2 | Trimester 3 | Trimester 1 | Trimester 2 | Trimester 3 |
| GB Cod .....                     | 3.3         | 4.9         | 5.0         | 5.4         | 8.0         | 8.2         | 5.4         | 8.0         | 8.2         |
| GOM Cod .....                    | 2.1         | 2.7         | 2.8         | 2.1         | 2.7         | 2.8         | 2.1         | 2.7         | 2.8         |
| GB Haddock .....                 | 123.5       | 151.0       | 183.0       | 106.6       | 130.3       | 158.0       | 171.6       | 209.8       | 254.3       |
| GOM Haddock .....                | 8.4         | 8.1         | 14.6        | 10.5        | 10.1        | 18.2        | 11.1        | 10.7        | 19.3        |
| GB Yellowtail Flounder .....     | 0.8         | 1.2         | 2.1         | 1.0         | 1.6         | 2.8         | .....       | .....       | .....       |
| SNE/MA Yellowtail Flounder ..... | 8.2         | 14.4        | 16.4        | 8.1         | 14.3        | 16.2        | 8.0         | 14.1        | 16.0        |
| CC/GOM Yellowtail Flounder ..... | 5.5         | 5.5         | 4.7         | 5.5         | 5.5         | 4.7         | 5.5         | 5.5         | 4.7         |
| American Plaice .....            | 5.4         | 8.1         | 9.1         | 5.6         | 8.4         | 9.3         | 5.9         | 8.8         | 9.8         |
| Witch Flounder .....             | 2.3         | 2.6         | 3.6         | 2.3         | 2.6         | 3.6         | 2.3         | 2.6         | 3.6         |
| GB Winter Flounder .....         | 0.5         | 1.4         | 3.9         | 0.5         | 1.4         | 3.9         | 0.5         | 1.4         | 3.9         |
| GOM Winter Flounder .....        | 12.8        | 13.2        | 8.7         | 12.8        | 13.2        | 8.7         | 12.8        | 13.2        | 8.7         |
| Redfish .....                    | 13.7        | 17.0        | 24.2        | 14.7        | 18.2        | 25.9        | 15.3        | 19.0        | 26.9        |
| White Hake .....                 | 9.5         | 7.8         | 7.8         | 9.2         | 7.5         | 7.5         | 9.0         | 7.4         | 7.4         |
| Pollock .....                    | 31.4        | 39.3        | 41.5        | 31.4        | 39.3        | 41.5        | 31.4        | 39.3        | 41.5        |

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

TABLE 9—COMMON POOL INCIDENTAL CATCH CAPS FOR FISHING YEARS 2016–2018  
[mt, live weight]

| Stock                            | Percentage of common pool sub-ACL (%) | 2016 | 2017 | 2018  |
|----------------------------------|---------------------------------------|------|------|-------|
| GB Cod .....                     | 2                                     | 0.26 | 0.43 | 0.43  |
| GOM Cod .....                    | 1                                     | 0.08 | 0.08 | 0.08  |
| GB Yellowtail Flounder .....     | 2                                     | 0.08 | 0.11 | ..... |
| CC/GOM Yellowtail Flounder ..... | 1                                     | 0.16 | 0.16 | 0.16  |
| American Plaice .....            | 5                                     | 1.13 | 1.17 | 1.22  |
| Witch Flounder .....             | 5                                     | 0.42 | 0.42 | 0.42  |
| SNE/MA Winter Flounder .....     | 1                                     | 0.71 | 0.71 | 0.71  |

TABLE 10—COMMON POOL INCIDENTAL CATCH TOTAL ALLOWABLE CATCHES DISTRIBUTION TO EACH SPECIAL MANAGEMENT PROGRAM  
[Percentage]

| Stock                            | Regular B days-at-sea (%) | Closed Area I hook gear haddock (%) | Eastern U.S./ CA haddock (%) |
|----------------------------------|---------------------------|-------------------------------------|------------------------------|
| GB Cod .....                     | 50                        | 16                                  | 34                           |
| GOM Cod .....                    | 100                       | .....                               | .....                        |
| GB Yellowtail Flounder .....     | 50                        | .....                               | 50                           |
| CC/GOM Yellowtail Flounder ..... | 100                       | .....                               | .....                        |
| American Plaice .....            | 100                       | .....                               | .....                        |
| Witch Flounder .....             | 100                       | .....                               | .....                        |
| SNE/MA Winter Flounder .....     | 100                       | .....                               | .....                        |
| White Hake .....                 | 100                       | .....                               | .....                        |

TABLE 11—COMMON POOL INCIDENTAL CATCH TOTAL ALLOWABLE CATCHES FOR EACH SPECIAL MANAGEMENT PROGRAM  
[mt, live weight]

| Stock                            | Regular B days-at-sea |      |      | Closed Area I hook gear haddock |      |      | Eastern U.S./Canada haddock |      |      |
|----------------------------------|-----------------------|------|------|---------------------------------|------|------|-----------------------------|------|------|
|                                  | 2016                  | 2017 | 2018 | 2016                            | 2017 | 2018 | 2016                        | 2017 | 2018 |
| GB Cod .....                     | 0.13                  | 0.22 | 0.22 | 0.04                            | 0.07 | 0.07 | 0.09                        | 0.15 | 0.15 |
| GOM Cod .....                    | 0.08                  | 0.08 | 0.08 | n/a                             | n/a  | n/a  | n/a                         | n/a  | n/a  |
| GB Yellowtail Flounder .....     | 0.04                  | 0.05 | 0.00 | n/a                             | n/a  | n/a  | 0.04                        | 0.05 | 0.00 |
| CC/GOM Yellowtail Flounder ..... | 0.16                  | 0.16 | 0.16 | n/a                             | n/a  | n/a  | n/a                         | n/a  | n/a  |
| American Plaice .....            | 1.13                  | 1.17 | 1.22 | n/a                             | n/a  | n/a  | n/a                         | n/a  | n/a  |
| Witch Flounder .....             | 0.42                  | 0.42 | 0.42 | n/a                             | n/a  | n/a  | n/a                         | n/a  | n/a  |
| SNE/MA Winter Flounder .....     | 0.71                  | 0.71 | 0.71 | n/a                             | n/a  | n/a  | n/a                         | n/a  | n/a  |

### 5. Default Catch Limits for the 2018 and 2019 Fishing Years

Framework 53 established a mechanism for setting default catch limits in the event a future management action is delayed. If final catch limits have not been implemented by the start of a fishing year on May 1, then default catch limits are set at 35 percent of the previous year's catch limit, effective through July 31 of that fishing year. If this value exceeds the Council's recommendation for the upcoming fishing year, the default catch limit must be reduced to an amount equal to the Council's recommendation. Because groundfish vessels are not able to fish if final catch limits have not been implemented, this measure was established to prevent disruption to the groundfish fishery. Additional description of the default catch limit mechanism is provided in the preamble to the Framework 53 final rule (80 FR 25110; May 1, 2015).

This rule announces default catch limits for the 2018 fishing year for GB yellowtail flounder, and for the 2019

fishing year for all remaining groundfish stocks. Default catch limits for the 2018 fishing year for GB yellowtail flounder were inadvertently omitted in the proposed rule, but are included here because the Council only recommended specifications for the 2016 and 2017 fishing year for this stock. The GB yellowtail flounder default specifications will become effective May 1, 2018, through July 31, 2018, unless otherwise replaced by final specifications. Similarly, for the remaining groundfish stocks, default specifications will become effective May 1, 2019, through July 31, 2019, unless otherwise replaced by final specifications. The default catch limits for 2018 GB yellowtail flounder are summarized in Table 12, and the default catch limits for 2019 for all other stocks are summarized in Table 13.

The preliminary sector and common pool sub-ACLs in Table 12 and 13 are based on existing 2015 sector rosters, and will be adjusted based on rosters from the 2017 or 2018 fishing years. In addition, prior to the start of the 2018

or 2019 fishing years, we will evaluate whether any of the default catch limits announced in this rule exceed the Council's recommendations for 2018 for GB yellowtail flounder, or for 2019 for the remaining groundfish stocks. If necessary, we will announce adjustments prior to implementing the default specifications.

The midwater trawl fishery is the only non-groundfish fishery with an inseason accountability measure for its groundfish allocation. When the GOM or GB haddock catch cap specified for the default specifications period is caught, the directed herring fishery would be closed for all herring vessels fishing with midwater trawl gear for the remainder of the default specifications time period, unless final specifications were set prior to July 31. For other non-groundfish fisheries that receive a groundfish allocation (*e.g.*, scallop, small-mesh), the default measures will not affect fishing operations because these fisheries do not have inseason accountability measures.

TABLE 12—FISHING YEAR 2018 DEFAULT SPECIFICATIONS FOR GB YELLOWTAIL FLOUNDER  
[mt, live weight]

| Stock                        | U.S. ABC | Total ACL | Groundfish sub-ACL | Preliminary sector sub-ACL | Preliminary common pool sub-ACL |
|------------------------------|----------|-----------|--------------------|----------------------------|---------------------------------|
| GB Yellowtail Flounder ..... | 39       | 39        | 32                 | 31                         | 1                               |

TABLE 13—FISHING YEAR 2019 DEFAULT SPECIFICATIONS  
[mt, live weight]

| Stock                            | U.S. ABC | Total ACL | Groundfish sub-ACL | Preliminary sector sub-ACL | Preliminary common pool sub-ACL | Midwater trawl fishery |
|----------------------------------|----------|-----------|--------------------|----------------------------|---------------------------------|------------------------|
| GB Cod .....                     | 583      | 437       | 465                | 455                        | 10                              | .....                  |
| GOM Cod .....                    | 233      | 175       | 204                | 127                        | 4                               | .....                  |
| GB Haddock .....                 | 125,327  | 27,264    | 5,007              | 4,963                      | 44                              | 51                     |
| GOM Haddock .....                | 2,176    | 1,685     | 1,552              | 1,107                      | 14                              | 16                     |
| SNE/MA Yellowtail Flounder ..... | .....    | 93        | 66                 | 52                         | 14                              | .....                  |
| CC/GOM Yellowtail Flounder ..... | 315      | 149       | 119                | 113                        | 5                               | .....                  |
| American Plaice .....            | 644      | 491       | 448                | 439                        | 9                               | .....                  |
| Witch Flounder .....             | 334      | 161       | 129                | 126                        | 3                               | .....                  |
| GB Winter Flounder .....         | 511      | 264       | 233                | 231                        | 2                               | .....                  |
| GOM Winter Flounder .....        | 378      | 284       | 224                | 212                        | 12                              | .....                  |
| SNE/MA Winter Flounder .....     | 555      | 273       | 205                | 180                        | 25                              | .....                  |
| Redfish .....                    | 5,341    | 4,025     | 3,709              | 3,688                      | 21                              | .....                  |
| White Hake .....                 | 1,657    | 1,268     | 1,168              | 1,160                      | 8                               | .....                  |
| Pollock .....                    | 12,161   | 7,459     | 6,236              | 6,196                      | 39                              | .....                  |
| N. Windowpane Flounder .....     | 85       | 64        | 64                 | .....                      | 64                              | .....                  |
| S. Windowpane Flounder .....     | 292      | 218       | 218                | .....                      | 218                             | .....                  |
| Ocean Pout .....                 | 77       | 58        | 58                 | .....                      | 58                              | .....                  |
| Atlantic Halibut .....           | 74       | 55        | 55                 | .....                      | 55                              | .....                  |
| Atlantic Wolffish .....          | 39       | 29        | 29                 | .....                      | 29                              | .....                  |

## 6. Groundfish At-Sea Monitoring Program Adjustments

This action adjusts the groundfish sector at-sea monitoring (ASM) program to ensure the likelihood that discards for all groundfish stocks are monitored at a 30-percent coefficient of variation (CV) while making the program more cost-effective. Due to changes in the 2015 revision to the Standardized Bycatch Reporting Methodology (SBRM) Amendment (80 FR 37182; June 30, 2015) that limit Agency discretion in how Congressional funding is used to provide observer coverage, we are unable to pay for industry's portion of ASM costs for the 2016 fishing year. A description of the existing industry-funded ASM program, and historic determination of ASM coverage levels, is included in the preamble to the proposed rule and is not repeated here.

### *ASM Program Adjustments*

This final rule modifies the method used to set the target coverage level for the industry-funded ASM program based on 5 years of experience with ASM coverage operations for groundfish sectors and evaluation of the accumulated discard data. These adjustments provide for setting target coverage levels sufficient to meet the 30-percent CV requirement while making the program more cost effective and smooth the fluctuations in the annual coverage level to provide additional stability for the fishing industry. The changes in this action remove ASM coverage for a certain subset of sector trips, use more years of discard information to predict ASM coverage levels, and base the target coverage level on the predictions for stocks that would be at a higher risk for an error in the discard estimate.

None of the adjustments implemented in this action remove our obligation under Amendment 16 and Framework 48 to ensure sufficient ASM coverage to achieve a 30-percent CV for all stocks, nor do they change our requirement to monitor catch sufficiently to prevent overfishing. The changes result in a target coverage level of 14 percent for the 2016 fishing year, including SBRM coverage paid in full by the Northeast Fisheries Observer Program (NEFOP). Assuming NEFOP covers 4 percent of trips as it has in recent years, this action results in sectors paying for ASM on approximately 10 percent of their vessels' trips in 2016.

We have determined that all of the adjustments to the ASM program in Framework 55 are consistent with the Northeast Multispecies FMP, including Amendment 16 and Framework 48, the

Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and its National Standards, and other applicable law. Amendment 16 stated that the primary goal of at-sea monitors is to verify area fished, catch, and discards by species and gear type. Amendment 16's overall goals included achieving goals of economic efficiency and minimizing adverse economic impacts on fishing communities to the extent practicable. Framework 48 clarified the objectives of the ASM program and included these goals. It further elaborated that target ASM coverage levels must balance the goals and objectives of groundfish monitoring programs, the National Standards, and the requirements of the Magnuson-Stevens Act, including, but not limited to, costs to us and sector vessels. In making our determination of the annual ASM coverage level, we must take into account the National Standards, in particular National Standards 1, 2, 5, 7, 8, and 9. These National Standards specifically speak to preventing overfishing; using the best scientific information available; minimizing costs and avoiding duplications where practicable; efficiency in the use of fishery resources; taking into account impacts on fishing communities and minimizing adverse economic impacts to the extent practicable; and minimizing bycatch to the extent practicable. The adjustments in Framework 55 are consistent with Amendment 16, Framework 48, and the National Standards. They further refine our ability to address groundfish monitoring objectives while setting a more efficient target ASM coverage level.

The measures included in this action are reasonable, narrowly-focused adjustments to the method used to calculate the target ASM coverage level for 2016 and future fishing years. Rather than specifying a fixed ASM coverage target for all future years, this action refines the process we use for predicting the level of ASM coverage necessary in a given year to achieve the 30-percent CV requirement. While these adjustments result in a lower target ASM coverage level for the 2016 fishing year compared to previous years, there is no guarantee that the changes will result in reduced target coverage levels in future fishing years (*i.e.*, using the same methods approved here could result in higher coverage in 2017 or 2018 than in recent years).

We are only able to determine whether the target coverage level reaches the 30-percent CV for all stocks in hindsight, after a fishing year is over.

Thus, while a target ASM coverage level is expected to generate a 30-percent CV on discard estimates for each stock, there is no guarantee that the required coverage level will be met or result in a 30-percent CV across all stocks due to changes in fishing effort and observed fishing activity that may happen in a given fishing year. However, during the 2010–2014 fishing years, the target coverage level was in excess of the coverage level that would have been necessary to reach at least a 30-percent CV for almost every stock.

We expect the 2016 target coverage level to achieve results consistent with prior years based on applying the 2016 target coverage level to the 2010–2014 fishing year data. For example, over the five years from 2010–2014, coverage levels of 14 percent would have achieved a 30-percent CV or better for 95 out of the 100 monitored stocks (*i.e.*, 20 stocks  $\times$  5 years). For two of the years, 2010 and 2012, all of the stocks would have achieved a 30-percent CV or better. The lowest 30-percent CV achievement overall would have occurred in fishing year 2014, when 17 of the 20 groundfish stocks would have met the 30-percent CV under the 2016 target coverage level. The three stocks that would not have achieved the 30-percent CV included redfish, GOM winter flounder, and SNE/MA yellowtail flounder. Our application of the 2016 target coverage level to 2010–2014 data, however, showed that stocks not achieving the 30-percent CV typically did not recur. Moreover, the only stock that would not have achieved a 30-percent CV for more than one of the five years (2 times) was SNE/MA yellowtail flounder. However, the 14-percent coverage level is projected to achieve the necessary 30-percent CV requirement for SNE/MA yellowtail flounder in 2016. Were a higher coverage level necessary to achieve the 30-percent CV requirement for this stock, coverage would have been set equal to that level.

Further, the risk of not achieving the required CV level for these stocks is mitigated by a number of factors. For example, a sizeable portion of the SNE/MA yellowtail flounder ACL has been caught over the last three years (58–70 percent), but less than 10 percent of total catch was made up of discards. Redfish and GOM winter flounder were underutilized over the last three fishing years (less than 50 percent of the ACL caught) and less than 10 percent of their total catch was made up of discards. Thus, even in the unexpected event of not achieving a 30-percent CV, the risk to these stocks of erring in the discard estimates is very low.



Further, the ASM program is only a portion of overall sector monitoring. The ASM program provides a basis for sector discard estimation. For most allocated stocks, discards are only a small portion of total catch. To monitor total sector catch, not just discards, NMFS and sector managers rely on a number of data sources, including NEFOP data, vessel monitoring systems (VMS), vessel trip reports, VMS catch reports, and dealer reports, all subject to extensive reconciliation processes. In addition, due to joint and severable liability of sector members for certain violations, including illegal discarding and misreporting of catch, there is a strong incentive for sector members to self-enforce monitoring and reporting requirements to ensure the sector has the most accurate information available. To account for any lack of absolute precision and accuracy in estimating overall catch by sector vessels, uncertainty buffers are included when establishing commercial groundfish fishery catch limits. In light of these requirements, and based on the available analyses of groundfish monitoring programs, we conclude that the sector monitoring requirements overall, including the adjustments to the method used to set the ASM coverage level in conjunction with other available data, are sufficient to monitor sector allocations and prevent overfishing.

*Removal of Standard That 80 Percent of Discarded Pounds be Monitored at a 30-Percent CV*

From 2012 to 2015, we set coverage levels to ensure that at least 80 percent of the discarded pounds of all groundfish stocks were estimated at a 30-percent CV or better to maintain the same statistical quality achieved in the 2010 fishing year. We applied this standard during years when Congress appropriated funds to pay for industry costs for the ASM program (2010 and 2011), and in other years when we were able to fund industry's costs for ASM (2012–2014, and part of 2015). In some years, applying this standard resulted in higher coverage levels than if the standard were not applied. However, this additional criterion was not necessary to satisfy the CV requirement of the ASM program, or to accurately monitor sector catches, and was not required by the Northeast Multispecies FMP. This action clarifies the Council's intent that target ASM coverage levels for sectors should be set using only realized stock-level CVs, and should not be set using the additional administrative standard of monitoring 80 percent of discard pounds at a 30-percent CV or better.

*Removing ASM Coverage Requirement for Extra-Large Mesh Gillnet Trips*

This Council action removes the ASM coverage requirement for sector trips using gillnets with extra-large mesh (10 inches (25.4 cm) or greater) in the SNE/MA and Inshore GB Broad Stock Areas. A majority of catch on these trips is of non-groundfish stocks such as skates, monkfish, and dogfish, with minimal or no groundfish catch. As a result, applying the same level of coverage on these trips as targeted groundfish trips does not contribute to improving the overall precision and accuracy of sector discard estimates, and would not be an efficient use of the limited resources for the ASM program. These trips will still be subject to SBRM coverage through NEFOP, and monitoring coverage levels would be consistent with non-sector trips that target non-groundfish species.

This measure is intended to reduce ASM costs to sectors with members that take this type of extra-large mesh gillnet trip. Reducing ASM coverage for these trips allows resources to be used to monitor trips that catch more groundfish, which could improve discard estimates for directed groundfish trips. All other sector trips will still be required to meet the 30-percent CV standard at a minimum. Changes in stock size or fishing behavior on these trips could change the amount of groundfish bycatch in future fishing years. However, data from 2012 to 2014 shows that groundfish catch has represented less than 5 percent of total catch on a majority of trips, and large changes are not expected. We will continue to evaluate this measure in the future to make sure bycatch levels remain low.

Because this subset of trips will have a different coverage level than other sector trips in the SNE/MA and Inshore GB Broad Stock Areas, we will create a separate discard strata for each stock caught on extra-large gillnet trips in order to ensure the different coverage levels do not bias discard estimates. At this time, no adjustments to the current notification procedures appear necessary to implement this measure. Sector vessels already declare gear type and Broad Stock Area to be fished in the Pre-Trip Notification System, which will allow us to easily identify trips that are exempt from ASM coverage.

To minimize the possibility that this measure could be used to avoid ASM coverage, only vessels declared into the SNE/MA and/or Inshore GB Broad Stock Areas using extra-large mesh gillnets will be exempt from the ASM coverage requirement. Vessels using extra-large mesh gillnet declaring into the GOM or

Offshore GB Broad Stock Areas will not be exempt from the ASM coverage requirement. In addition, a vessel is already prohibited from changing its fishing plan for a trip once a waiver from coverage has been issued.

Framework 48 implemented a similar measure exempting the subset of sector trips declared into the SNE/MA Broad Stock Area on a monkfish Day-At-Sea (DAS) and using extra-large mesh gillnets from the standard ASM coverage level. The Framework 48 measure gave us the authority to specify some lower coverage level for these trips on an annual basis when determining coverage levels for all other sector trips. Since this measure was implemented at the start of the 2013 fishing year, the ASM coverage level for these trips has been set to zero, and these trips have only been subject to NEFOP coverage. The measure adopted in this action supersedes the Framework 48 measure because it entirely removes the ASM coverage requirement from these trips.

*Using Multiple Years of Data To Determine ASM Total Coverage Levels*

Currently, data from the most recent fishing year are used to predict the target ASM coverage level for the upcoming fishing year. For example, data from the 2013 groundfish fishing year were used to set the target ASM coverage level for the 2015 fishing year. When a single year of data is used to determine the target coverage level, the entire coverage level is driven by the variability in discards in a single stock. This variability is primarily due to inter-annual changes in management measures and fishing activity. Though the target ASM coverage level has ranged from 22 to 26 percent for the last four fishing years, there is the potential that variability could result in large fluctuations of target ASM coverage levels in the future, and result in target coverage levels that are well above the level necessary to meet the 30-percent CV for most stocks. For example, available analyses indicates that, using the status quo methodology, the ASM coverage level would be 41 percent in 2016 compared to the current 2015 rate of 24 percent. Based on a 2016 target coverage level of 41 percent, the coverage level that would have been necessary to meet a 30-percent CV in 2014 would be exceeded by 15–39 percent for 19 of the 20 stocks.

The measure adopted in this action will use information from the most recent three full fishing years to predict target ASM coverage levels for the upcoming fishing year. For example, data from the 2012 to 2014 fishing years were used to predict the target ASM

coverage level for the 2016 fishing year. Now that five full years of discard data are available, using multiple years of data is expected to smooth inter-annual fluctuations in the level of coverage needed to meet a 30-percent CV that might result from changes to fishing activity and management measures. This measure is intended to make the annual determination of the target ASM coverage level more stable. For example, the percent coverage necessary to reach a 30-percent CV for redfish varied widely for the last 3 years (5 percent in 2012; 10 percent in 2013, and 37 percent in 2014). Additional stability in predicting the annual target ASM coverage level is beneficial in the context of the industry-funded ASM program. Wide inter-annual fluctuations in the necessary coverage level make it difficult for groundfish vessels to plan for the costs of monitoring, and for ASM service providers to adjust staffing to meet variable demands for monitoring coverage. The ability for ASM service providers to successfully meet staffing needs, including maintaining the appropriate staff numbers and retaining quality monitors, increases the likelihood of achieving the target coverage level each year.

#### *Filtering the Application of the 30-Percent CV Standard for Determining Target Coverage*

The measure adopted in this action will filter the application of the 30-percent CV standard for determining target coverage levels consistent with existing goals for the ASM program. Stocks that meet all of the following criteria will not be used as the predictor for the annual target ASM coverage level for all groundfish stocks: (1) Not overfished; (2) Overfishing is not occurring; (3) Not fully utilized (less than 75 percent of sector sub-ACL harvested); and (4) Discards are less than 10 percent of total catch.

None of the adjustments in this Framework, including this measure, eliminates the 30-percent CV standard or removes the Agency's requirement to prevent overfishing. Rather, this measure is intended to reflect the Council's policy that the target ASM coverage level should be based on stocks that are overfished, are subject to overfishing, or are more fully utilized—that is, stocks for which it is critical to attempt to fully account for past variability in discard estimates. Because stocks that meet all four of the filtering criteria are healthy and not fully utilized, there is a lower risk in erring in the discard estimate. Additionally, using these stocks to predict the target coverage could lead to coverage levels

that are not necessary to accurately monitor sector catch.

For the 2016 fishing year, preliminary analysis shows that, under the status quo methodology for determining the ASM target coverage level, redfish would drive the target coverage level at 37 percent. However, redfish is a healthy stock, and current biomass is well above the biomass threshold. Redfish also meets all of the filtering criteria—the stock is currently not overfished, overfishing is not occurring, only 45 percent of the sector sub-ACL was harvested in 2014, and only 3 percent of total catch was made up of discards. Also, because of the high year-to-year variability in the coverage necessary to achieve the 30-percent CV standard for redfish, we expect the target coverage level of 14 percent to meet the 30-percent CV requirement for 2016.

#### *Clarification of Groundfish Monitoring Goals and Objectives*

As described in the preamble to the proposed rule, Framework Adjustment 48 revised and clarified the goals and objectives of groundfish monitoring programs to include, among other things, improving the documentation of catch, reducing the cost of monitoring, and providing additional data streams for stock assessments. However, Framework 48 did not prioritize these goals and objectives. This rulemaking clarifies that, consistent with Amendment 16, the primary goal of the sector ASM program is to verify area fished, catch and discards by species, and by gear type, and that when the Agency sets the target coverage rate, it should consider achieving this goal in the most cost effective manner practicable, which is consistent with Magnuson-Stevens Act requirements and Amendment 16's overall goal. This clarification of the program goals would not affect the target ASM coverage levels.

## **7. Other Framework 55 Measures**

### *Formation of Sustainable Harvest Sector II*

This action approves the formation of a new sector, Sustainable Harvest Sector II, for operation in the 2016 fishing year. Allocations for Sustainable Harvest Sector II are included in section “8. Sector Measures for the 2016 Fishing Year” based on enrollment information submitted for this sector as of March 15, 2016. All permits enrolled in this sector, and the vessels associated with those permits, have until April 30, 2016, to withdraw from the sector and fish in the common pool for the 2016 fishing year.

Final 2016 sector allocations, based upon final rosters, will be announced as soon as possible after the start of the 2016 fishing year.

### *Modification of the Sector Approval Process*

This action modifies the sector approval process so that new sectors no longer have to be approved through an FMP amendment or framework adjustment. Under the process implemented in this final rule, new sectors must submit operations plans to both the Council and NMFS no later than September 1 of the fishing year prior to the fishing year they intend to begin operations. For example, if a new sector wishes to operate for the 2017 fishing year starting on May 1, 2017, it must submit its operations plan to the Council and NMFS no later than September 1, 2016.

Once NMFS receives operations plans for any proposed sectors, it will notify the Council in writing of its intent to consider approving new sectors. NMFS will present the submitted sector operations plans and any supporting analysis for the new sector at a Groundfish Committee meeting and a Council meeting. After its review, the Council will submit comments to NMFS in writing and indicate whether it endorses the formation of the new sector. NMFS will then make a final determination about new sector consistent with the Administrative Procedure Act. NMFS will not initiate a rulemaking to make final determinations on the formation of the new sector without the Council's endorsement.

This modified process is intended to shorten the timeline for, and increase the flexibility of, the sector approval process, while maintaining the same opportunities for Council approval and public involvement that the current process provides. No other aspects of the sector formation process, including the content of sector operations plan submissions, change as a result of this measure.

### *Modification to the Definition of the Haddock Separator Trawl*

This action modifies requirements for the haddock separator trawl to improve the enforceability of this selective trawl gear. In many haddock separator trawls, the separator panel is made with the same mesh color as the net, which makes it difficult for enforcement to identify whether the gear is properly configured during vessel inspections. This rule requires the separator panel to be a contrasting color to the portions of the net that it separates in order to make

the panel highly visible. The new requirement is intended to improve identification of the panel during vessel inspections, which is expected to allow for faster inspections and more effective enforcement. This modification does not affect rope or Ruhlle trawls. We are delaying effectiveness of this measure by 6 months, until October 31, 2016 to allow affected fishermen time to replace their separator panels with contrasting netting.

#### *Removal of Gulf of Maine Cod Recreational Possession Limit*

This final rule removes the prohibition on recreational possession of GOM cod that was established as part of the protection measures implemented for this stock in Framework 53. We currently set recreational management measures for GOM cod and haddock in consultation with the Council, and have the authority to modify bag limits, size limits, and seasons. The Framework 53 prohibition on the recreational possession of GOM cod was implemented as a permanent provision in the Northeast Multispecies FMP. In removing the permanent prohibition on recreational possession of GOM cod, this measure returns the authority to us to set the recreational bag limit for GOM cod. We are implementing the 2016 recreational management measures for GOM cod and haddock in a separate, concurrent rulemaking to ensure the recreational fishery does not exceed its allocations for these stocks.

#### *Distribution of Eastern/Western GB Cod Sector Allocations*

This rule allows sectors to “convert” their eastern GB cod allocation into western GB cod allocation using the same process previously implemented for GB haddock in Framework Adjustment 51 (77 FR 22421; April 22, 2014). This measure is intended to prevent the Western U.S./Canada Area from prematurely closing to a sector before its overall GB cod allocation has been caught, and provides additional flexibility for sectors to harvest their GB cod allocations.

Sectors are allowed to convert eastern GB cod allocation into western GB cod allocation at any time during the fishing year, and up to 2 weeks into the following fishing year to cover any overage during the previous fishing year. A sector’s proposed allocation conversion would be referred to, and approved by, NMFS based on general issues, such as whether the sector is complying with reporting or other administrative requirements, including weekly sector reports, or member vessel compliance with Vessel Trip Reporting

requirements. Based on these factors, we would notify the sector if the conversion is approved or disapproved. Consistent with the existing GB haddock transfer provision, we intend to use member vessel compliance with Vessel Trip Reporting requirements as the basis for approving, or disapproving, a reallocation of eastern GB quota to the Western U.S./Canada Area. If we include additional criteria in the future as the basis for approving or disapproving reallocation of these requests, we will do so consistent with the Administrative Procedure Act. This is identical to the process used for reviewing, and approving, quota transfer requests between sectors.

The responsibility for ensuring that sufficient allocation is available to cover the conversion is the responsibility of the sector. This measure would also extend to state-operated permit banks. Any conversion of eastern GB cod allocation into western GB cod allocation may be made only within a sector, or permit bank, and not between sectors or permit banks. In addition, once a portion of eastern GB cod allocation has been converted to western GB cod allocation, that portion of allocation remains western GB cod for the remainder of the fishing year. Western GB cod allocation may not be converted to eastern GB cod allocation. This measure does not change the requirement that sector vessels may only catch their eastern GB cod allocation in the Eastern U.S./Canada Area, and may only catch the remainder of their GB cod allocation in the Western U.S./Canada Area.

The total catch limit for GB cod includes the U.S. quota for eastern GB cod, so this measure does not jeopardize the total ACL for GB cod, or the U.S. quota for the eastern portion of the stock. A sector would also still be required to stop fishing in the Eastern U.S./Canada Area once its entire eastern GB cod allocation was caught, or in the Western U.S./Canada Area once its western GB cod allocation was caught, or at least until it leased in additional quota. This ensures sufficient accountability for sector catch that will help prevent overages of any GB cod catch limit. Although we are approving this measure, we recommend that the Council occasionally review this measure in the future to ensure that it is still appropriate, particularly if there is a drastic change in the stock assessment for GB cod or its eastern management unit.

#### **8. Sector Measures for the 2016 Fishing Year**

This action also includes measures necessary to implement sector operations plan, including sector regulatory exemptions and annual catch entitlements, for all 19 sectors for the 2016 fishing year. In past years, sector operations measures have been approved through a separate, concurrent rulemaking, but are included in this rulemaking for efficiency.

##### *Sector Operations Plans and Contracts*

A total of 19 sectors are approved to operate in the 2016 fishing year, including:

- Seventeen sectors that had operations plans previously approved for the 2016 fishing year (see the Final Rule for 2015 and 2016 Sector Operations Plans and 2015 Contracts and Allocation of Northeast Multispecies Annual Catch Entitlements; 80 FR 25143; May 1, 2015);
  - Sustainable Harvest Sector II, discussed in section “7. Other Framework 55 Measures,” which was approved for formation as part of Framework 55; and
  - Northeast Fishery Sector 12, which has not operated since 2013, but submitted an operations plan that is approved for the 2016 fishing year.
- Copies of the operations plans and contracts, and the EA, for all approved sectors are available at: <http://www.regulations.gov> and from NMFS (see ADDRESSES).

##### *Sector Allocations*

Based on anticipated 2016 sector enrollment as of March 15, 2016, we have projected sector allocations for the 2016 fishing year in this final rule. All permits enrolled in a sector, and the vessels associated with those permits, have until April 30, 2016, to withdraw from a sector and fish in the common pool for the 2016 fishing year. We will publish final sector annual catch entitlements (ACEs) and common pool sub-ACL totals, based upon final rosters, as soon as possible after the start of the 2016 fishing year, and again after the start of the 2017 and 2018 fishing years.

The sector allocations in this final rule are based on the 2016 fishing year specifications described above under “3. Catch Limits for the 2016–2018 Fishing Years.” We calculate the sector’s allocation for each stock by summing its members’ potential sector contributions (PSC) for a stock, as shown in Table 14. The information presented in Table 14 is the total percentage of the commercial sub-ACL each sector would receive for

the 2016 fishing year, based on preliminary 2016 fishing year rosters. Tables 15 and 16 show the allocations each sector would receive for the 2016 fishing year, based on their preliminary 2016 fishing year rosters. At the start of the fishing year, after sector enrollment is finalized, we provide the final allocations, to the nearest pound, to the individual sectors, and we use those final allocations to monitor sector catch. While the common pool does not receive a specific allocation, the common pool sub-ACLs have been included in each of these tables for comparison.

We do not assign an individual permit separate PSCs for the Eastern GB cod or Eastern GB haddock; instead, we assign a permit a PSC for the GB cod stock and GB haddock stock. Each sector's GB cod and GB haddock allocations are then divided into an Eastern ACE and a Western ACE, based on each sector's

percentage of the GB cod and GB haddock ACLs. For example, if a sector is allocated 4 percent of the GB cod ACL and 6 percent of the GB haddock ACL, the sector is allocated 4 percent of the commercial Eastern U.S./Canada Area GB cod TAC and 6 percent of the commercial Eastern U.S./Canada Area GB haddock TAC as its Eastern GB cod and haddock ACEs. These amounts are then subtracted from the sector's overall GB cod and haddock allocations to determine its Western GB cod and haddock ACEs. Framework 51 implemented a mechanism that allows sectors to "convert" their Eastern GB haddock allocation into Western GB haddock allocation (79 FR 22421; April 22, 2014) and fish that converted ACE in Western GB. This rule approves a similar measure for GB cod under "6. Other Framework 55 Measures."

At the start of the 2016 fishing year, we will withhold 20 percent of each

sector's 2016 fishing year allocation until we finalize fishing year 2015 catch information. In the past, we have typically finalized the prior year's catch during the summer months. We expect to finalize 2015 catch information consistent with this past practice. We will allow sectors to transfer ACE from the 2015 fishing year for two weeks of the fishing year following our completion of year-end catch accounting to reduce or eliminate any 2015 fishing year overages. If necessary, we will reduce any sector's 2016 fishing year allocation to account for any remaining overages in the 2015 fishing year. We will notify the Council and sector managers of this deadline in writing and will announce this decision on our Web site at: <http://www.greateratlantic.fisheries.noaa.gov/>.

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**Table 14. Cumulative PSC (percentage) each sector would receive by stock for fishing year 2016.\***

| Sector                                    | †GB Cod      | GOM Cod      | †GB Haddock  | GOM Haddock  | GB Yellowtail Flounder | SNE/MA Yellowtail Flounder | ‡CC/GOM Yellowtail Flounder | Plaice       | Witch Flounder | GB Winter Flounder | GOM Winter Flounder | ‡SNE/MA Winter Flounder | Redfish      | White Hake   | Pollock      |
|---|--------------|--------------|--------------|--------------|------------------------|----------------------------|-----------------------------|--------------|----------------|--------------------|---------------------|-------------------------|--------------|--------------|--------------|
| GB Cod Fixed Gear Sector (FGS)            | 28.55        | 2.61         | 6.34         | 1.87         | 0.01                   | 0.37                       | 3.04                        | 0.98         | 2.14           | 0.03               | 13.46               | 2.34                    | 2.79         | 5.73         | 7.42         |
| Maine Coast Community Sector (MCCS)       | 0.25         | 5.82         | 0.04         | 2.86         | 0.00                   | 0.77                       | 0.93                        | 7.57         | 5.07           | 0.01               | 1.85                | 0.32                    | 2.92         | 5.82         | 5.81         |
| Maine Permit Bank                         | 0.13         | 1.15         | 0.04         | 1.12         | 0.01                   | 0.03                       | 0.32                        | 1.16         | 0.73           | 0.00               | 0.43                | 0.02                    | 0.82         | 1.65         | 1.69         |
| Northeast Coastal Community Sector (NCCS) | 0.18         | 0.99         | 0.14         | 0.39         | 0.84                   | 0.72                       | 0.80                        | 0.31         | 0.30           | 0.05               | 1.34                | 0.29                    | 0.46         | 0.86         | 0.52         |
| Northeast Fishery Sector (NEFS) 1         | 0.00         | 0.03         | 0.00         | 0.00         | 0.00                   | 0.00                       | 0.04                        | 0.01         | 0.01           | 0.00               | 0.05                | 0.00                    | 0.00         | 0.00         | 0.00         |
| NEFS 2                                    | 5.77         | 19.70        | 10.64        | 17.78        | 1.86                   | 1.73                       | 19.92                       | 9.54         | 13.57          | 3.21               | 19.39               | 3.50                    | 15.05        | 6.94         | 12.95        |
| NEFS 3                                    | 0.88         | 12.19        | 0.10         | 7.56         | 0.04                   | 0.07                       | 7.10                        | 2.23         | 1.78           | 0.01               | 7.71                | 0.42                    | 0.91         | 3.59         | 4.97         |
| NEFS 4                                    | 4.14         | 9.60         | 5.34         | 8.27         | 2.16                   | 2.35                       | 5.46                        | 9.29         | 8.49           | 0.69               | 6.24                | 1.28                    | 6.64         | 8.06         | 6.16         |
| NEFS 5                                    | 0.54         | 0.00         | 0.86         | 0.00         | 1.35                   | 23.04                      | 0.21                        | 0.46         | 0.62           | 0.47               | 0.02                | 13.36                   | 0.02         | 0.11         | 0.05         |
| NEFS 6                                    | 2.87         | 2.96         | 2.92         | 3.86         | 2.70                   | 5.26                       | 3.73                        | 3.89         | 5.20           | 1.50               | 4.55                | 1.94                    | 5.31         | 3.91         | 3.31         |
| NEFS 7                                    | 1.25         | 0.80         | 1.35         | 0.59         | 3.41                   | 2.47                       | 2.27                        | 0.74         | 0.94           | 1.28               | 2.38                | 0.80                    | 0.36         | 0.56         | 0.45         |
| NEFS 8                                    | 6.59         | 0.16         | 6.11         | 0.08         | 10.64                  | 5.21                       | 2.93                        | 2.19         | 2.60           | 21.18              | 0.71                | 9.02                    | 0.55         | 0.51         | 0.64         |
| NEFS 9                                    | 13.17        | 3.01         | 11.24        | 7.39         | 25.19                  | 8.71                       | 10.61                       | 9.71         | 9.41           | 32.56              | 2.94                | 17.94                   | 9.05         | 6.38         | 6.36         |
| NEFS 10                                   | 0.34         | 2.41         | 0.16         | 1.36         | 0.00                   | 0.53                       | 4.54                        | 1.10         | 1.75           | 0.01               | 9.22                | 0.50                    | 0.33         | 0.62         | 0.70         |
| NEFS 11                                   | 0.41         | 12.81        | 0.04         | 3.11         | 0.00                   | 0.02                       | 2.56                        | 2.09         | 2.07           | 0.00               | 2.17                | 0.02                    | 1.99         | 4.76         | 9.04         |
| NEFS 12                                   | 0.63         | 2.98         | 0.09         | 1.05         | 0.00                   | 0.01                       | 7.95                        | 0.50         | 0.57           | 0.00               | 7.65                | 0.22                    | 0.23         | 0.30         | 0.82         |
| NEFS 13                                   | 12.11        | 0.91         | 19.95        | 1.04         | 34.49                  | 21.00                      | 8.51                        | 8.38         | 9.14           | 17.80              | 3.01                | 16.54                   | 4.23         | 2.07         | 2.59         |
| New Hampshire Permit Bank                 | 0.00         | 1.14         | 0.00         | 0.03         | 0.00                   | 0.00                       | 0.02                        | 0.03         | 0.01           | 0.00               | 0.06                | 0.00                    | 0.02         | 0.08         | 0.11         |
| Sustainable Harvest Sector 1              | 3.28         | 7.06         | 3.08         | 5.88         | 1.21                   | 0.60                       | 5.55                        | 6.61         | 5.73           | 6.02               | 7.11                | 2.39                    | 6.57         | 9.56         | 8.37         |
| Sustainable Harvest Sector 2              | 0.29         | 0.35         | 0.40         | 0.07         | 2.21                   | 2.24                       | 1.14                        | 0.72         | 0.62           | 0.46               | 1.33                | 1.11                    | 0.26         | 0.34         | 0.27         |
| Sustainable Harvest Sector 3              | 16.73        | 10.80        | 30.49        | 34.70        | 12.40                  | 7.46                       | 8.39                        | 30.82        | 27.18          | 13.91              | 3.42                | 17.29                   | 40.99        | 37.49        | 27.20        |
| <b>Sectors Total</b>                      | <b>98.12</b> | <b>97.47</b> | <b>99.34</b> | <b>99.03</b> | <b>98.54</b>           | <b>82.59</b>               | <b>96.02</b>                | <b>98.32</b> | <b>97.92</b>   | <b>99.20</b>       | <b>95.05</b>        | <b>89.28</b>            | <b>99.49</b> | <b>99.34</b> | <b>99.43</b> |
| <b>Common</b>                             | <b>1.88</b>  | <b>2.53</b>  | <b>0.66</b>  | <b>0.97</b>  | <b>1.46</b>            | <b>17.41</b>               | <b>3.98</b>                 | <b>1.68</b>  | <b>2.08</b>    | <b>0.80</b>        | <b>4.95</b>         | <b>10.72</b>            | <b>0.51</b>  | <b>0.66</b>  | <b>0.57</b>  |

\* The data in this table are based on preliminary fishing year 2016 sector rosters submitted March 15, 2016; sectors roster will be finalized on April 30, 2016. Final allocations may differ as a result.

† For fishing year 2016, 18.9 percent of the GB cod ACL would be allocated for the Eastern U.S./Canada Area, while 28.46 percent of the GB haddock ACL would be allocated for the Eastern U.S./Canada Area.

‡ SNE/MA Yellowtail Flounder refers to the SNE/Mid-Atlantic stock. CC/COM Yellowtail Flounder refers to the Cape Cod/GOM stock.

Table 15. ACE (in 1,000 lbs), by stock, for each sector for fishing year 2016.\*#^

| Sector                       | GB Cod East | GB Cod West | GOM Cod | GB Haddock East | GB Haddock West | GOM Haddock | GB YT Flounder | SNE/MA YT Flounder | CC/GOM YT Flounder | American Plaice | Witch Flounder | GB Winter Flounder | GOM Winter Flounder | SNE/MA Winter Flounder | Redfish | White Hake | Pollock |
|------------------------------|-------------|-------------|---------|-----------------|-----------------|-------------|----------------|--------------------|--------------------|-----------------|----------------|--------------------|---------------------|------------------------|---------|------------|---------|
| FGS                          | 87          | 296         | 16      | 2120            | 5102            | 100         | 0              | 2                  | 23                 | 26              | 17             | 0                  | 190                 | 30                     | 585     | 437        | 2915    |
| MCCS                         | 1           | 3           | 36      | 14              | 34              | 152         | 0              | 3                  | 7                  | 197             | 41             | 0                  | 26                  | 4                      | 612     | 444        | 2282    |
| Maine Permit Bank            | 0           | 1           | 7       | 15              | 36              | 60          | 0              | 0                  | 2                  | 30              | 6              | 0                  | 6                   | 0                      | 173     | 126        | 665     |
| NCCS                         | 1           | 2           | 6       | 46              | 111             | 21          | 4              | 3                  | 6                  | 8               | 2              | 1                  | 19                  | 4                      | 96      | 65         | 202     |
| NEFS 1                       | 0           | 0           | 0       | 0               | 0               | 0           | 0              | 0                  | 0                  | 0               | 0              | 0                  | 1                   | 0                      | 0       | 0          | 0       |
| NEFS 2                       | 18          | 60          | 122     | 3559            | 8563            | 947         | 9              | 7                  | 150                | 249             | 111            | 42                 | 273                 | 45                     | 3160    | 529        | 5088    |
| NEFS 3                       | 3           | 9           | 75      | 33              | 80              | 403         | 0              | 0                  | 53                 | 58              | 15             | 0                  | 109                 | 5                      | 191     | 274        | 1952    |
| NEFS 4                       | 13          | 43          | 59      | 1784            | 4293            | 441         | 10             | 10                 | 41                 | 242             | 69             | 9                  | 88                  | 17                     | 1395    | 614        | 2420    |
| NEFS 5                       | 2           | 6           | 0       | 286             | 689             | 0           | 6              | 96                 | 2                  | 12              | 5              | 6                  | 0                   | 172                    | 5       | 9          | 19      |
| NEFS 6                       | 9           | 30          | 18      | 978             | 2352            | 205         | 13             | 22                 | 28                 | 101             | 42             | 20                 | 64                  | 25                     | 1115    | 299        | 1298    |
| NEFS 7                       | 4           | 13          | 5       | 452             | 1088            | 31          | 16             | 10                 | 17                 | 19              | 8              | 17                 | 34                  | 10                     | 75      | 43         | 179     |
| NEFS 8                       | 20          | 68          | 1       | 2043            | 4916            | 4           | 49             | 22                 | 22                 | 57              | 21             | 275                | 10                  | 116                    | 116     | 39         | 251     |
| NEFS 9                       | 40          | 136         | 19      | 3760            | 9047            | 394         | 117            | 36                 | 80                 | 253             | 77             | 423                | 41                  | 231                    | 1901    | 486        | 2499    |
| NEFS 10                      | 1           | 4           | 15      | 55              | 132             | 73          | 0              | 2                  | 34                 | 29              | 14             | 0                  | 130                 | 6                      | 68      | 47         | 274     |
| NEFS 11                      | 1           | 4           | 79      | 13              | 31              | 166         | 0              | 0                  | 19                 | 54              | 17             | 0                  | 31                  | 0                      | 419     | 363        | 3551    |
| NEFS 12                      | 2           | 7           | 18      | 31              | 76              | 56          | 0              | 0                  | 60                 | 13              | 5              | 0                  | 108                 | 3                      | 48      | 23         | 324     |
| NEFS 13                      | 37          | 125         | 6       | 6673            | 16054           | 55          | 160            | 88                 | 64                 | 219             | 75             | 231                | 42                  | 213                    | 889     | 158        | 1018    |
| New Hampshire Permit Bank    | 0           | 0           | 7       | 0               | 0               | 2           | 0              | 0                  | 0                  | 1               | 0              | 0                  | 1                   | 0                      | 4       | 6          | 44      |
| Sustainable Harvest Sector 1 | 10          | 34          | 44      | 1030            | 2479            | 313         | 6              | 2                  | 42                 | 172             | 47             | 78                 | 100                 | 31                     | 1379    | 729        | 3286    |
| Sustainable Harvest Sector 2 | 1           | 3           | 2       | 134             | 323             | 4           | 10             | 9                  | 9                  | 19              | 5              | 6                  | 19                  | 14                     | 55      | 26         | 105     |
| Sustainable Harvest Sector 3 | 51          | 173         | 67      | 10196           | 24530           | 1848        | 58             | 31                 | 63                 | 804             | 222            | 181                | 48                  | 223                    | 8607    | 2859       | 10683   |
| Sectors Total                | 299         | 1017        | 602     | 33225           | 79935           | 5275        | 458            | 344                | 722                | 2564            | 799            | 1290               | 1339                | 1151                   | 20894   | 7576       | 39056   |
| Common                       | 6           | 20          | 16      | 219             | 528             | 52          | 7              | 73                 | 30                 | 44              | 17             | 10                 | 70                  | 138                    | 107     | 50         | 224     |

\* The data in this table are based on preliminary fishing year 2016 sector rosters submitted March 15, 2016; sectors roster will be finalized on April 30, 2016. Final allocations may differ as a result.

#Numbers are rounded to the nearest thousand lbs. In some cases, this table shows an allocation of 0, but that sector may be allocated a small amount of that stock in tens or hundreds pounds.

^ The data in the table represent the total allocations to each sector. NMFS will withhold 20 percent of a sector's total ACE at the start of the fishing year.

**Table 16. ACE (in metric tons), by stock, for each sector for fishing year 2016.\*#^**

| Sector                       | GB Cod East | GB Cod West | GOM Cod | GB Haddock East | GB Haddock West | GOM Haddock | GB YT Flounder | SNE/MA YT Flounder | CC/GOM YT Flounder | American Plaice | Witch Flounder | GB Winter Flounder | GOM Winter Flounder | SNE/MA Winter Flounder | Redfish | White Hake | Pollock |
|------------------------------|-------------|-------------|---------|-----------------|-----------------|-------------|----------------|--------------------|--------------------|-----------------|----------------|--------------------|---------------------|------------------------|---------|------------|---------|
| FGS                          | 39          | 134         | 7       | 962             | 2314            | 45          | 0              | 1                  | 10                 | 12              | 8              | 0                  | 86                  | 14                     | 266     | 198        | 1322    |
| MCCS                         | 0           | 1           | 16      | 6               | 16              | 69          | 0              | 1                  | 3                  | 90              | 19             | 0                  | 12                  | 2                      | 278     | 201        | 1035    |
| Maine Permit Bank            | 0           | 1           | 3       | 7               | 16              | 27          | 0              | 0                  | 1                  | 14              | 3              | 0                  | 3                   | 0                      | 78      | 57         | 302     |
| NCCS                         | 0           | 1           | 3       | 21              | 50              | 9           | 2              | 1                  | 3                  | 4               | 1              | 0                  | 9                   | 2                      | 43      | 30         | 92      |
| NEFS 1                       | 0           | 0           | 0       | 0               | 0               | 0           | 0              | 0                  | 0                  | 0               | 0              | 0                  | 0                   | 0                      | 0       | 0          | 0       |
| NEFS 2                       | 8           | 27          | 55      | 1614            | 3884            | 430         | 4              | 3                  | 68                 | 113             | 50             | 19                 | 124                 | 20                     | 1433    | 240        | 2308    |
| NEFS 3                       | 1           | 4           | 34      | 15              | 36              | 183         | 0              | 0                  | 24                 | 26              | 7              | 0                  | 49                  | 2                      | 87      | 124        | 885     |
| NEFS 4                       | 6           | 19          | 27      | 809             | 1947            | 200         | 5              | 4                  | 19                 | 110             | 31             | 4                  | 40                  | 7                      | 633     | 279        | 1098    |
| NEFS 5                       | 1           | 3           | 0       | 130             | 313             | 0           | 3              | 44                 | 1                  | 5               | 2              | 3                  | 0                   | 78                     | 2       | 4          | 9       |
| NEFS 6                       | 4           | 13          | 8       | 444             | 1067            | 93          | 6              | 10                 | 13                 | 46              | 19             | 9                  | 29                  | 11                     | 506     | 135        | 589     |
| NEFS 7                       | 2           | 6           | 2       | 205             | 494             | 14          | 7              | 5                  | 8                  | 9               | 3              | 8                  | 15                  | 5                      | 34      | 19         | 81      |
| NEFS 8                       | 9           | 31          | 0       | 927             | 2230            | 2           | 22             | 10                 | 10                 | 26              | 10             | 125                | 5                   | 53                     | 53      | 18         | 114     |
| NEFS 9                       | 18          | 62          | 8       | 1706            | 4104            | 179         | 53             | 16                 | 36                 | 115             | 35             | 192                | 19                  | 105                    | 862     | 221        | 1133    |
| NEFS 10                      | 0           | 2           | 7       | 25              | 60              | 33          | 0              | 1                  | 15                 | 13              | 6              | 0                  | 59                  | 3                      | 31      | 22         | 124     |
| NEFS 11                      | 1           | 2           | 36      | 6               | 14              | 75          | 0              | 0                  | 9                  | 25              | 8              | 0                  | 14                  | 0                      | 190     | 165        | 1611    |
| NEFS 12                      | 1           | 3           | 8       | 14              | 34              | 25          | 0              | 0                  | 27                 | 6               | 2              | 0                  | 49                  | 1                      | 22      | 10         | 147     |
| NEFS 13                      | 17          | 57          | 3       | 3027            | 7282            | 25          | 73             | 40                 | 29                 | 99              | 34             | 105                | 19                  | 97                     | 403     | 72         | 462     |
| New Hampshire Permit Bank    | 0           | 0           | 3       | 0               | 0               | 1           | 0              | 0                  | 0                  | 0               | 0              | 0                  | 0                   | 0                      | 2       | 3          | 20      |
| Sustainable Harvest Sector 1 | 5           | 15          | 20      | 467             | 1124            | 142         | 3              | 1                  | 19                 | 78              | 21             | 36                 | 45                  | 14                     | 626     | 331        | 1491    |
| Sustainable Harvest Sector 2 | 0           | 1           | 1       | 61              | 147             | 2           | 5              | 4                  | 4                  | 9               | 2              | 3                  | 8                   | 6                      | 25      | 12         | 48      |
| Sustainable Harvest Sector 3 | 23          | 79          | 30      | 4625            | 11126           | 838         | 26             | 14                 | 29                 | 365             | 101            | 82                 | 22                  | 101                    | 3904    | 1297       | 4846    |
| Sectors Total                | 135         | 461         | 273     | 15071           | 36258           | 2393        | 208            | 156                | 327                | 1163            | 362            | 585                | 607                 | 522                    | 9478    | 3436       | 17715   |
| Common                       | 3           | 9           | 7       | 99              | 239             | 23          | 3              | 33                 | 14                 | 20              | 8              | 5                  | 32                  | 63                     | 48      | 23         | 102     |

\* The data in this table are based on preliminary fishing year 2016 sector rosters submitted March 15, 2016; sectors roster will be finalized on April 30, 2016. Final allocations may differ as a result.

#Numbers are rounded to the nearest metric ton, but allocations are made in pounds. In some cases, this table shows a sector allocation of 0 metric tons, but that sector may be allocated a small amount of that stock in pounds.

^ The data in the table represent the total allocations to each sector. NMFS will withhold 20 percent of a sector's total ACE at the start of the fishing year.

### Sector Carryover From the 2015 to 2016 Fishing Year

Sectors can carry over up to 10 percent of the unused initial allocation for each stock into the next fishing year. However, the maximum available carryover may be reduced if up to 10 percent of the unused sector sub-ACL, plus the total ACL for the upcoming fishing year, exceeds the total ABC. Based on the catch limits implemented in this action, we evaluated whether the total potential catch in the 2016 fishing year would exceed the ABC if sectors carried over the maximum 10-percent of unused allocation from 2015 to 2016 (Table 17). Table 17 corrects errors presented in that table in the proposed rule, and provides analysis of maximum

carryover for pollock, which was omitted from the table in the proposed rule. Under this scenario, total potential catch would exceed the 2016 ABC for all stocks except for GOM haddock and GB haddock. As a result, we expect we will need to adjust the maximum amount of unused allocation that a sector can carry forward from 2015 to 2016 (down from 10 percent). However, it is possible that not all sectors will have 10 percent of unused allocation at the end of the 2015 fishing year. We will make final adjustments to the maximum carryover possible for each sector based on the final 2015 catch for the sectors, each sector's total unused allocation, and the cumulative PSCs of vessels/permits participating in the sector. We

will announce this adjustment as close to May 1, 2016, as possible.

Based on the catch limits adopted in this rule, the *de minimis* carryover amount for the 2016 fishing year will be set at the default one-percent of the 2016 overall sector sub-ACL. The overall *de minimis* amount will be applied to each sector based on the cumulative PSCs of the vessel/permits participating in the sector. If the overall ACL for any allocated stock is exceeded for the 2016 fishing year, the allowed carryover harvested by a sector minus its specified *de minimis* amount, will be counted against its allocation to determine whether an overage, subject to an accountability measure (AM), occurred.

TABLE 17—EVALUATION OF MAXIMUM CARRYOVER ALLOWED FROM THE 2015 TO 2016 FISHING YEARS  
[mt, live weight]

| Stock                            | 2016 U.S. ABC | 2016 Total ACL | Potential carryover (10% of 2015 sector sub-ACL) | Total potential catch (2016 total ACL + potential carryover) | Difference between total potential catch and ABC |
|----------------------------------|---------------|----------------|--|--|--|
| GB Cod .....                     | 762           | 730            | 175  | 905  | 143  |
| GOM cod .....                    | 500           | 473            | 20   | 493  | -7   |
| GB Haddock .....                 | 56,068        | 53,309         | 2,157  | 55,466   | -602   |
| GOM Haddock .....                | 3,630         | 3,430          | 95   | 3,525  | -105   |
| SNE Yellowtail Flounder .....    | 267           | 255            | 46   | 301  | 34   |
| CC/GOM Yellowtail Flounder ..... | 427           | 409            | 44   | 453  | 26   |
| Plaice .....                     | 1,297         | 1,235          | 138  | 1,373  | 76   |
| Witch Flounder .....             | 460           | 441            | 60   | 501  | 41   |
| GB Winter Flounder .....         | 668           | 650            | 187  | 837  | 169  |
| GOM Winter Flounder .....        | 810           | 776            | 37   | 813  | 3  |
| SNE/MA Winter Flounder .....     | 780           | 749            | 115  | 864  | 84   |
| Redfish .....                    | 10,338        | 9,837          | 1,097  | 10,934   | 596  |
| White Hake .....                 | 3,754         | 3,572          | 431  | 4,003  | 249  |
| Pollock .....                    | 21,312        | 20,374         | 1,363  | 21,737   | 425  |

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

### Sector Exemptions

Because sectors elect to receive an allocation under a quota-based system, the Northeast Multispecies FMP grants sector vessels several “universal” exemptions from the FMP’s effort controls. These universal exemptions apply to: Trip limits on allocated stocks; the GB Seasonal Closure Area; NE multispecies DAS restrictions; the requirement to use a 6.5-inch (16.5-cm) mesh codend when fishing with selective gear on GB; and portions of the GOM Cod Protection Closures. The Northeast Multispecies FMP prohibits sectors from requesting exemptions from permitting restrictions, gear restrictions designed to minimize habitat impacts, and reporting requirements. In addition to the “universal” exemptions approved under Amendment 16 to the FMP, all 19 sectors are granted 19 additional exemptions from the NE multispecies

regulations for the 2016 fishing year. These exemptions were previously approved in the sector operations rulemaking for the 2015 and 2016 fishing years. Descriptions of the current range of approved exemptions are included in the preamble to the Final Rule for 2015 and 2016 Sector Operations Plans and 2015 Contracts (80 FR 25143; May 1, 2015) and are not repeated here.

We are approving an additional sector exemption intended to complement the Framework 55 measure that removes the ASM coverage requirement for sector trips using 10-inch (25.4-cm) mesh, or larger, gillnet gear and fishing exclusively in the inshore GB and SNE/MA broad stock areas (described in section “6. Groundfish At-Sea Monitoring Program Adjustments”). The sector exemption allows vessels on these ASM-excluded sector trips to also target dogfish using 6.5-inch (16.5-cm)

mesh gillnet gear within the footprint and season of either the Nantucket Shoals Dogfish Exemption Area (June 1 to October 15), the Eastern Area of the Cape Cod Spiny Dogfish Exemption Area (June 1 to December 31), or the Southern New England Dogfish Gillnet Exemption Area (May 1 to October 31). Allowing sectors to participate in these exempted fisheries for dogfish while simultaneously being excluded from ASM coverage on extra-large mesh sector trips (*i.e.*, take trips using both greater than 10-inch (25.4-cm) mesh and 6.5-inch (16.5-in) mesh) is intended to maximize the viability and profitability of their businesses. The GB Fixed Gear Sector requested this exemption, and we will grant this exemption to any sectors that modify their operations plans to include this exemption. In this rule, we have also implemented regulatory text to detail the process for amending sector operations plans during the fishing year



in section “10. Regulatory Corrections under Regional Administrator Authority.”

We intend to monitor the use of this exemption using the existing vessel trip report (VTR) requirement. Vessels are currently required to send separate VTRs for each statistical area in which fishing occurred on a trip, and for each gear type used on a trip. Thus, consistent with the current regulations, vessels must submit a VTR to document catch on the extra-large mesh portion of the trip, and a separate VTR for the portion of the trip in which deploy the vessel deploys 6.5-inch (16.5-in) mesh gillnet gear within the footprint and season of the existing dogfish exempted areas. We will closely monitor this exemption to evaluate whether additional reporting measures are necessary, and will propose any changes to reporting requirements related to this measure consistent with the Administrative Procedure Act. While sector trips using this exemption will still be exempt from ASM coverage, any legal-sized allocated groundfish stocks caught during these trips must be landed and the associated landed

weight (dealer or VTR) will be deducted from the sector's ACE.

#### 9. 2016 Fishing Year Annual Measures Under Regional Administrator Authority

The Northeast Multispecies FMP gives us authority to implement certain types of management measures for the common pool fishery, the U.S./Canada Management Area, and Special Management Programs on an annual basis, or as needed. This action implements a number of these management measures for the 2016 fishing year. These measures are not part of Framework 55, and were not specifically considered by the Council. We are implementing them in conjunction with Framework 55 measures in this final rule for expediency purposes, and because they relate to the catch limits considered in Framework 55.

##### Common Pool Trip Limits

The initial fishing year 2016 DAS possession limits and maximum trip limits for common pool vessels are included in Tables 18 and 19. These

possession limits were developed after considering changes to the common pool sub-ACLs and sector rosters from 2015 to 2016, catch rates of each stock during 2015, and other available information. During the fishing year, we will adjust possession and trip limits, as necessary, to facilitate harvest or prevent overages, of common pool catch limits.

We have corrected an error in the per DAS limit for CC/GOM yellowtail flounder in Table 18. Table 19 in the proposed rule listed the CC/GOM yellowtail flounder limit as 75 lb (34 kg) per DAS. The limit should have been listed as 750 lb (340 kg) per DAS. After re-evaluating the common pool allocation, and in response to public comment, we are also setting the initial GOM haddock trip limit at 200 lb (91 kg) per DAS, up to 600 lb (272 kg) per trip. We have determined that this higher initial trip limit is warranted given the 175-percent increase in the 2016 GOM haddock common pool sub-ACL, and will provide increased opportunity for common pool vessels to target GOM haddock.

TABLE 18—INITIAL COMMON POOL POSSESSION AND TRIP LIMITS FOR THE 2016 FISHING YEAR

| Stock   | 2016 trip limit  |
|---|--|
| GB Cod (outside Eastern U.S./Canada Area) ..... | 500 lb (227 kg) per DAS, up to 2,500 lb per (1,134 kg) per trip. |
| GB Cod (inside Eastern U.S./Canada Area) .....  | 100 lb (45 kg) per DAS, up to 500 lb (227 kg) per trip.          |
| GOM Cod .....                                   | 25 lb (11 kg) per DAS up to 100 lb (45 kg) per trip.             |
| GB Haddock .....                                | 100,000 lb (45,359 kg) per trip.                                 |
| GOM Haddock .....                               | 200 lb (91 kg) per DAS up to 600 lb (272 kg) per trip.           |
| GB Yellowtail Flounder .....                    | 100 lb (45 kg) per trip.   |
| SNE/MA Yellowtail Flounder .....                | 250 lb (113 kg) per DAS, up to 500 lb (227 kg) per trip.         |
| CC/GOM Yellowtail Flounder .....                | 750 lb (340 kg) per DAS up to 1,500 lb (680 kg) per trip.        |
| American plaice .....                           | 1,000 lb (454 kg) per trip.                                      |
| Witch Flounder .....                            | 250 lb (113 kg) per trip.  |
| GB Winter Flounder .....                        | 250 lb (113 kg) per trip.  |
| GOM Winter Flounder .....                       | 2,000 lb (907 kg) per trip.                                      |
| SNE/MA Winter Flounder .....                    | 2,000 lb (907 kg) per DAS, up to 4,000 lb (1,814 kg) per trip.   |
| Redfish .....                                   | Unlimited.   |
| White hake .....                                | 1,500 lb (680 kg) per trip.                                      |
| Pollock .....                                   | Unlimited.   |
| Atlantic Halibut .....                          | 1 fish per trip.   |
| Windowpane Flounder .....                       | Possession Prohibited.   |
| Ocean Pout.                                     |  |
| Atlantic Wolffish.                              |  |

TABLE 19—INITIAL COD TRIPS LIMITS FOR HANDGEAR A, HANDGEAR B, AND SMALL VESSEL CATEGORY PERMITS FOR THE 2016 FISHING YEAR

| Permit                      | 2016 trip limit  |
|-----------------------------|--|
| Handgear A GOM Cod .....    | 25 lb (11 kg) per trip.  |
| Handgear A GB Cod .....     | 300 lb (136 kg) per trip.  |
| Handgear B GOM Cod .....    | 25 lb (11 kg) per trip.  |
| Handgear B GB Cod .....     | 25 lb (11 kg) per trip.  |
| Small Vessel Category ..... | 300 lb (136 kg) of cod, haddock, and yellowtail flounder combined.<br>Maximum of 25 lb (11 kg) of GOM cod and 100 lb (45 kg) of GOM haddock within the 300-lb combined trip limit. |

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

This action allocates zero trips for common pool vessels to target yellowtail flounder within the Closed Area II Yellowtail Flounder/Haddock Special Access Program (SAP) for fishing year 2016. Common pool vessels can still fish in this SAP in 2016 to target haddock, but must fish with a haddock separator trawl, a Ruhle trawl, or hook gear. Vessels are not allowed to fish in this SAP using flounder trawl nets. This SAP is open from August 1, 2016, through January 31, 2017.

We have the authority to determine the allocation of the total number of trips into the Closed Area II Yellowtail Flounder/Haddock SAP based on several criteria, including the GB yellowtail flounder catch limit and the amount of GB yellowtail flounder caught outside of the SAP. The Northeast Multispecies FMP specifies that no trips should be allocated to the Closed Area II Yellowtail Flounder/Haddock SAP if the available GB yellowtail flounder catch is insufficient to support at least 150 trips with a 15,000-lb (6,804-kg) trip limit (or 2,250,000 lb (1,020,600 kg)). This calculation accounts for the projected catch from the area outside the SAP. Based on the 2016 fishing year GB yellowtail flounder groundfish sub-ACL of 465,175 lb (211,000 kg), there is insufficient GB yellowtail flounder to allocate any trips to the SAP, even if the projected catch from outside the SAP area is zero. Further, given the low GB yellowtail flounder catch limit, catch rates outside of this SAP are more than adequate to fully harvest the 2016 GB yellowtail flounder allocation.

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

The following changes are being made using Magnuson-Stevens Act section 305(d) authority to clarify regulatory intent, correct references, inadvertent deletions, and other minor errors.

In § 648.87(b)(4)(i)(G), text is revised to clarify that NMFS will determine the adequate level of insurance that monitoring service providers must provide to cover injury, liability, and accidental death to cover at-sea monitors, and notify potential service providers.

In § 648.87(c)(2)(i)(A), the definition of the Fippennies Ledge Area is added after being inadvertently deleted in a previous action.

In § 648.87(c)(4), regulatory text is added to detail the process for amending sector operations plans during the fishing year.

### **Comments and Responses on Measures Proposed in the Framework 55 Proposed Rule**

We received 35 comments during the comment period on the Framework 55 proposed rule. Public comments were submitted by the Council, two state officials and one state office, five non-governmental organizations, seven sectors, six commercial fishing organizations, seven commercial fishermen, four recreational fishermen, and two individuals. We requested specific comment on whether the Council's proposed measures in Framework 55 are consistent with the Northeast Multispecies FMP, as adjusted by Amendment 16 and Framework 48, the Magnuson-Stevens Act and its National Standards, and other applicable law. Responses to the comments received are below, and, when possible, responses to similar comments on the proposed measures have been consolidated.

#### *Status Determination Criteria*

*Comment 1:* The Council commented that the proposed rule did not accurately summarize the assessment peer review's conclusion that the overfishing status for GB cod and Atlantic halibut is unknown.

*Response:* The proposed rule noted that, based on the results of the 2015 assessment update for GB cod, the stock remains overfished and that overfishing is occurring. For halibut, the proposed rule noted the stock remains overfished and that overfishing is not occurring. These final NMFS stock status determinations differ slightly from the conclusions of the assessment peer review panel. Clarification of these determinations for GB cod and halibut is provided in section "2. Status Determination Criteria," and is not repeated here.

#### *2016 Fishing Year Shared U.S./Canada Quotas*

*Comment 2:* Environmental Defense Fund (EDF) supported the proposed 2016 fishing year shared U.S./Canada quotas for eastern GB cod, eastern GB haddock, and GB yellowtail flounder.

*Response:* We agree, and this final rule implements these quotas for the 2016 fishing year. The 2016 shared U.S./Canada quotas are based on the results of the 2015 TRAC assessment, which represents the best scientific information available. These quotas are also consistent with the recommendations of the TMGC and the SSC.

### *Catch Limits for the 2016–2018 Fishing Years*

*Comment 3:* EDF supported all of the proposed catch limits for the 2016–2018 fishing years.

*Response:* We agree, and are implementing these catch limits for the 2016–2018 fishing years. These catch limits are based on the 2015 stock assessments for these stocks, which represent the best scientific information available, and are consistent with the SSC's recommendations and conservation objectives. Assessment updates are scheduled for 2017 for most groundfish stocks, which will provide the opportunity to update the 2018 catch limits implemented in this final rule, if warranted.

*Comment 4:* Conservation Law Foundation (CLF) opposed the proposed 2016–2018 catch limits. CLF commented that catch limits have failed to effectively control fishing mortality for most groundfish stocks, and that the proposed 2016–2018 catch limits will not prevent overfishing.

*Response:* We disagree. As noted above, the catch limits in Framework 55 are consistent with the best scientific information available, conservation objectives of the Northeast Multispecies FMP, and applicable law. In each year since Amendment 16 was implemented in 2010, ACLs have not been exceeded for a majority of groundfish stocks, with the exception of the windowpane flounder stocks in most of these years, and GOM haddock in 2013. When ACLs have been exceeded, we have implemented accountability measures (AMs) to prevent overfishing. We continue to use the best scientific information available from our stock assessments, trawl surveys, and catch history to set catch limits for groundfish stocks. In response to stock assessments, quotas for many poor-performing groundfish stocks have been substantially reduced. For example, the catch limit for GOM cod has been reduced by 95 percent since Amendment 16 was implemented. Although there are uncertainties in the stock assessments, the SSC uses some strategies (e.g., holding the ABC constant for a 3-year period if the stock is in poor condition) to account for this uncertainty. Further, although 2018 catch limits are adopted in this action, assessment updates are scheduled for most groundfish stocks for fall 2017. These assessment updates will provide the opportunity to update the 2018 catch limits adopted in this action and ensure that catch limits continue to be set consistent with conservation and

management objectives of the Northeast Multispecies FMP.

*Comment 5:* The Associated Fisheries of Maine (AFM) and Massachusetts state representative Antonio Cabral expressed concern for the GB cod catch limit and the economic impacts this quota reduction will have on groundfish vessels. State Representative Cabral suggested that the current 2015 catch limit should remain in place. AFM also commented that the SSC should have been provided with projections for stock growth under the status quo model in addition to the approach recommended by the assessment peer review panel.

*Response:* We are adopting the Council's recommended GB cod ABC of 1,249 mt for the 2016–2018 fishing years. This ABC is a 95-percent reduction compared to 2015, and available analysis indicates that GB cod, as well as other key groundfish stocks, will likely constrain the fishery in 2016. However, catch limits must first meet conservation objectives and satisfy applicable Magnuson-Stevens Act requirements to end overfishing and rebuild fish stocks, even if they result in negative economic impacts. The Council selected the ABC recommended by the SSC, which is the highest possible ABC allowed that will end overfishing and allow some stock rebuilding.

The 2015 assessment review panel agreed that, in the event the 2015 assessment update for any stock was not accepted, an alternative assessment approach to specify catch advice would be based on the most recent 3-year average quota or catches. The assessment model for GB cod was rejected as a basis for catch advice. However, the assessment peer review panel was concerned that the status quo catch may not be appropriate for GB cod given current stock status and resource survey trends. As a result, the peer review panel recommended using an approach that reduced recent average catch by the same proportion as the most recent survey trend. The Council's Groundfish Plan Development Team (PDT) provided the SSC with advice based on this approach and the SSC used this approach, which represents the best scientific information available, in developing its recommendation of 1,249 mt for the 2016 to 2018 fishing years.

*Comment 6:* AFM commented that the U.S. assessment for GB cod and the TRAC assessment for eastern GB cod should use the same assumptions because it is a single stock.

*Response:* In advance of the 2015 groundfish assessments, we anticipated conflicting results between the U.S. assessment for the entire GB cod stock

and the joint U.S.-Canada assessment for the shared portion of this stock. The discrepancy is due to the use of different models and natural mortality assumptions for each assessment, and would have resulted in a U.S.-Canada estimate for the shared portion of the stock that was larger than the U.S. estimate for the entire GB cod stock. During the July 2015 TRAC assessment, the model for the shared portion of the GB cod stock was accepted. However, the U.S. assessment for the total GB cod stock was rejected due to a strong retrospective pattern during the September 2015 groundfish assessments and instead, the 2016 catch recommendation was based on a recent average catch approach, described in the response to Comment 5.

Since the 2015 assessments, we have continued to work with Canadian managers and scientists to resolve the differences in the assumptions used in both assessments. The TRAC has been directed to provide 2017 catch advice that better balances the different assumptions used in the GB cod and eastern GB cod assessment models. We are also planning to assess the structure of the cod stocks (GB and GOM) in 2017. The results of this analysis will help determine how many stocks there are, based on the biology of the stock, and inform discussions on the assumptions used in the GB cod and eastern GB cod assessment models. All of this analysis will ultimately support future benchmark assessments for the resulting cod stocks.

*Comment 7:* NEFS XIII and one commercial fisherman commented that the Council should set GB cod management measures for party/charter boats that reflect the large reductions in allocations that have been imposed on the commercial fleet. The commercial fisherman suggested a two- to five-fish bag limit and a spawning closure for April, May and June.

*Response:* Management measures for the GB cod recreational fishery were not considered by the Council in Framework 55. Amendment 16 only adopted recreational allocations and AMs for GOM cod and haddock, and did not establish recreational allocations or AMs for any other groundfish stocks. Amendment 16 specified that a recreational allocation would only be made if recreational catch, after accounting for recreational state waters catch, is less than 5 percent of total removals. At the time Amendment 16 was developed and implemented, recreational catches of GB cod did not meet this standard, and no allocation was made. For the purposes of catch accounting, Amendment 16 specified

that recreational catch of GB cod would be included in the other sub-component, which is the portion of the U.S. ABC expected to be harvested by unidentified non-groundfish fishery components. The other sub-component is not considered an allocation, and the fisheries included in this component are not subject to specific AMs.

The majority of other subcomponent catch from 2010–2014 was recreational landings; however, the Council has not yet considered whether a recreational allocation for GB cod may be necessary. Creation of a recreational allocation for this stock would have to be developed through the Council in a future management action.

*Comment 8:* AFM, the Northeast Seafood Coalition (NSC), and the Sustainable Groundfish Association (SGA) expressed concern for the witch flounder ABC of 460 mt. AFM commented in opposition to the witch flounder ABC. All three organizations noted that a higher ABC, equal to the SSC's recommendation, could have been adopted. Both AFM and NSC also noted that the difference in stock growth between the three witch flounder ABC alternatives (399 mt; 460 mt; and 500 mt) is not statistically significant.

*Response:* We are adopting the Council's recommended witch flounder ABC of 460 mt for the 2016–2018 fishing years. A description of the SSC and Council discussions regarding the witch flounder ABC, and the development of various catch alternatives, is included in the preamble to the proposed rule and Appendix I of the Framework 55 EA, and is not repeated here.

The SSC's ABC recommendation is a limit that the Council may not exceed when developing its final ABC recommendation. However, this does not, and should not, preclude the Council from selecting an ABC that is lower than the SSC's catch advice. Although the Council could have selected a higher ABC equal to the SSC's recommendation of 500 mt, the Council recommended a slightly lower ABC (460 mt) to balance the need to provide flexibility for groundfish vessels while reducing the risk of overfishing. The Council recommended this ABC after consideration of stock growth, the probability of overfishing, and the economic impacts of the various ABC alternatives. An ABC of 460 mt complies with Magnuson-Stevens Act requirements, including achieving optimum yield and taking into account the needs of fishing communities, without compromising conservation objectives to prevent overfishing and rebuild the stock.

As noted in the proposed rule, a benchmark assessment for witch flounder is scheduled for fall of 2016. Assessment results would likely be available in time to re-specify witch flounder catch limits for the 2017 fishing year, if necessary. Thus, although a 3-year constant ABC is adopted in this action, the limits may only be in place for 1 year and will be replaced if updated information shows it is necessary.

NSC correctly noted that the preamble to the proposed rule did not correctly reference the December 2015 Council motion for the SSC to reconsider the witch flounder ABC. The preamble inadvertently included text from the Council's larger discussion leading to the final motion that discussed consideration of incidental non-target catch of witch flounder. However, the proposed rule included the correct ABC of 460 mt, and the error does not affect the rationale for the catch limit adopted in this final rule.

*Comment 9:* NSC and the Fisheries Survival Fund (FSF) commented that the 2015 assessment update for SNE/MA yellowtail flounder should have been rejected, but supported the SSC's alternative ABC approach and the final ABC recommendation. FSF also questioned why the GB cod assessment was rejected but the SNE/MA yellowtail assessment was not. NSC supports additional scientific examination of the datasets, model formulation, and source of the retrospective error in this assessment.

*Response:* We are adopting a 267-mt ABC for SNE/MA yellowtail flounder for the 2016–2018 fishing years, as recommended by the Council and SSC. A description of the SSC discussion regarding the SNE/MA yellowtail flounder ABC is included in the preamble to the proposed rule, and is not repeated here.

When developing its ABC recommendations for SNE/MA yellowtail flounder, the SSC discussed the disparate treatment of the GB cod and SNE/MA yellowtail flounder assessment. The SSC noted that, although the decisions for each assessment seem inconsistent, there are important differences between the assessments that justified these respective decisions. For example, the magnitude of the retrospective bias for SNE/MA yellowtail flounder (106 percent) was substantially less than for GB cod (240 percent). In addition, the SNE/MA yellowtail flounder assessment performed better than the GB cod assessment by other diagnostic measures. We agree that these are reasonable distinctions that support the

SSC's decisions. The SSC's discussion is summarized in more detail in the SSC's November 17, 2017, memorandum to the Council on 2016–2018 groundfish ABCs, included in Appendix I to the Framework 55 EA.

Although the SNE/MA yellowtail flounder assessment update was not rejected, as supported by the commenters, the SSC acknowledged the poor condition of the stock, substantial uncertainty in the assessment, and procedural issues with the assessment terms of reference in recommending a 3-year ABC of 267 mt. This ABC is based on a combination of the assessment catch projections and an estimate of 2015 catch, which appropriately balances the new understanding of this stock's status and uncertainty in the assessment, while allowing as much flexibility as practicable for groundfish and scallop vessels.

Because SNE/MA yellowtail flounder is now overfished, a rebuilding program must be developed for the stock. We will work with the Council to develop an appropriate rebuilding program, particularly in light of some of the difficulties that the assessment results presented in developing 2016–2018 catch advice.

*Comment 10:* Two recreational fishermen opposed to the 60-percent increase in the GOM winter flounder ABC. One commented that the stock is not healthy enough to justify a 60-percent quota increase. Both commented that the recreational fishery will be harmed if the quota increase causes more commercial fishing effort. One suggested a commercial moratorium to allow the stock to rebuild.

*Response:* GOM winter flounder catch limits are based on the 2015 assessment for the stock. Overfishing is not occurring, but biomass reference points are unavailable for this stock. The assessment model relies on resource survey data, so current biomass and fishing mortality estimates, as well as catch advice, tend to vary with interannual variations in the survey. After declines in the survey indices for the last 5 years (2009–2013), there was an increase in survey catch in 2014, which resulted in the increase in catch advice.

The assessment review panel expressed concern that the recent biomass estimates substantially decreased despite relatively low catch, and noted that reasons for this apparent decline are unknown. In spite of the uncertainties in the assessment, it was approved as a basis for catch advice. Because catch advice fluctuates with area-swept assessments, the assessment

review panel recommended stabilizing catch advice by averaging the area-swept fall and spring survey. This results in an ABC of 745 mt. The PDT provided the SSC with this option, but the SSC ultimately chose an ABC consistent with 75%  $F_{MSY}$ .

NMFS disagrees that a commercial moratorium is necessary to limit catch of GOM winter flounder. While this is a relatively large ABC increase compared to 2015, recent catches have been well below the overfishing threshold. In addition, available catch information suggests that a majority of GOM winter flounder catch comes from the same statistical areas as the majority of GOM cod catch. We expect that the low catch limit for GOM cod will continue to limit catch of GOM winter flounder.

*Comment 11:* One commercial fisherman suggested that NMFS increase allowed landings of Atlantic halibut to three fish per trip for limited access permits because it could convert discards to landings, maximize value of quota, and support the collection of biological samples for this stock.

*Response:* Framework 55 did not consider adjustments to the Atlantic halibut trip limit. Adjustments of the trip limit for halibut are outside of the scope of this action. Any changes to the trip limit would have to be developed through the Council process in a future management action.

*Comment 12:* A number of commenters expressed concern about specific assessments and about the assessment process in general. Several commenters proposed alternative data sources or assessment models.

*Response:* The Framework 55 proposed rule did not propose or solicit public comment on assessment methods or processes. NMFS can only approve, partially approve, or disapprove the status determination criteria and catch limits proposed in this action based on an evaluation of their compliance with the Magnuson-Stevens Act, the Northeast Multispecies FMP, and other applicable law.

The 2015 assessment updates replicated the methods recommended in the most recent benchmark decisions, as modified by any subsequent operational assessments or updates, with the intention of simply adding years of data. Only minor flexibility in the assessment assumptions was allowed to address emerging issues. Thus, the commenters' suggestions for alternative data sources or assessment models would not have been appropriate for the 2015 assessment updates.

The NEFSC has made significant efforts over the past few years to

increase transparency and promote an understanding of the assessment process. These efforts include outreach meetings, data workshops, and providing informational materials in advance of the peer review meetings. We encourage the commenters to continue to engage with the NEFSC to ensure that their concerns and suggestions are raised as early in the process as possible.

*Comment 13:* The Council identified a transcription error in the groundfish sub-ACL for GB cod for 2017 and 2018 in its February 19, 2016, submission of the Framework 55 EA. This error is also reflected in Tables 6 and 7 in the proposed rule.

*Response:* We have corrected this error in Tables 6 and 7 under section “4. Catch Limits for the 2016–2018 Fishing Years.” The groundfish sub-ACL was incorrectly listed as 608 mt for both years. It should have been listed as 997 mt.

#### *Default Catch Limits for the 2019 Fishing Year*

*Comment 14:* The Council noted that the transcription error in the GB cod sub-ACL (see Comment 13) was carried into the default specifications for the 2019 fishing year. The Council also noted that the proposed rule inadvertently omitted default specifications for 2018 for GB yellowtail flounder.

*Response:* We have corrected the omission of the GB yellowtail flounder default specifications under section “5. Default Catch Limits for the 2018 and 2019 Fishing Years.” Default catch limits for the 2018 fishing year for GB yellowtail flounder were inadvertently omitted in the proposed rule because the Council only recommended specifications for the 2016 and 2017 fishing year for this stock. This error has been corrected here. The transcription error in the GB cod groundfish sub-ACL did not affect the 2019 default specifications presented in the proposed rule for this stock.

#### *Groundfish At-Sea Monitoring Program Adjustments*

*Comment 15:* AFM, the SHS, New Hampshire Governor Margaret Wood Hassan, the Gloucester Fisheries Commission (GFC), the SGA, the Northeast Seafood Coalition, NEFS II, NEFS VII, NEFS VIII, NEFS XII, NEFS XIII, and the Massachusetts Office of the Attorney General commented in support of the changes to the ASM program.

*Response:* We agree, and are implementing the full set of proposed changes to the ASM program. This action does not specify a fixed ASM

coverage target for all future years, and is not approving a lower target ASM coverage level in perpetuity. Rather, using information gained from past ASM coverage levels, this action refines the process we use for predicting the level of ASM coverage necessary in a given year to achieve the required 30-percent CV. In comparison to previous years, the refinements made in this action could lead to lower or higher ASM coverage target rates in future years.

Based on these changes, this rule also announces our determination that the target ASM coverage level is 14 percent (ASM + NEFOP observer coverage) for the 2016 fishing year. This level of coverage provides a reliable estimate of overall catch by sectors to monitor annual catch levels in the most cost-effective means practicable. This interpretation is justified in light of the requirement for conservation and management measures to be consistent with all National Standards, specifically, National Standards 2, 5, 7, and 8, which speak, respectively, to the need to use the best scientific information available; efficiency in the use of fishery resources; the need to minimize costs and avoid unnecessary duplication, where practicable; and the need to take into account impacts on fishing communities and minimize adverse economic impacts, to the extent practicable. We have conducted analyses, and considered both precision and accuracy issues in determining the appropriate level of coverage that provides a reliable estimate of overall catch while reducing the cost burden to sectors and NMFS. A more detailed summary of the supporting analyses, and an explanation and justification supporting our determination that an at-sea coverage level of 14 percent (10 percent ASM + 4 percent NEFOP) is sufficient is contained in the EA.

*Comment 16:* The Georges Bank Cod Fixed Gear Sector, the SGA, and The Nature Conservancy (TNC) commented in support of the alternative to exempt extra-large mesh gillnet trips in Broad Stock Areas 2 and 4 from ASM coverage. The NSC, the GFC, NEFS II, NEFS VII, NEFS VIII, NEFS XII, NEFS XIII also support this measure, provided that this change does not increase coverage levels on other sector trips.

*Response:* We agree, and are adopting this alternative as proposed. These trips have negligible groundfish catch and are receiving the same level of coverage as other sector trips, with no resultant benefit to the overall precision and accuracy of groundfish discard estimates. By exempting these trips from ASM coverage, those resources can be

directed to cover trips with meaningful catches of groundfish and, thereby, improve the estimates of groundfish discards.

These extra-large mesh gillnet sector trips will be excluded from the trips considered in setting and monitoring ASM coverage levels. However, we are not yet able to determine how removing the ASM coverage requirement from certain trips will impact the overall variability of the remaining population of sector trips, or how it will affect the coverage necessary to meet the 30-percent CV requirement in future years. The economic impact section of the EA (Section 7.4) discusses this uncertainty, and notes that, if ASM coverage were to be shifted onto other components of the fleet, there would be no overall cost savings to sectors. Nonetheless, we are approving this measure because it prioritizes limited resources and monitoring coverage for trips that actually catch groundfish.

*Comment 17:* Many commenters questioned the appropriateness of the ASM program’s 30-percent CV precision standard. EDF, Oceana, and TNC urge NMFS to disapprove the ASM measures in Framework 55, and implement higher coverage levels they contend are necessary to precisely and accurately monitor catch and discards. They encourage us to continue to work with the Council to develop measures to monitor the fishery based on the best available science and to assure accountability to prevent overfishing. Cape Cod Commercial Fishermen’s Alliance and Penobscot East Resource Center did not comment in detail on the groundfish monitoring program adjustments proposed in Framework 55, but expressed their view that it is necessary to work towards an effective and affordable groundfish monitoring program that meets the goals and objectives of the Northeast Multispecies FMP.

*Response:* We are approving the measures in Framework 55. Framework 55 only includes administrative modifications to the ASM program using information gained from ASM program performance in the past 5 years, and was narrowly focused on adjusting the method used to set the target coverage level for the industry-funded ASM program. The Council has identified groundfish monitoring as a priority for 2016, and the PDT is already working on analysis to inform more extensive changes to the groundfish monitoring program (e.g., possibly adjusting the 30-percent CV precision standard) in a future action. We note that to administer the monitoring program each year, we set target ASM

coverage levels to achieve monitoring program requirements. Consistent with this practice, we would have implemented a 17-percent target ASM coverage level had Framework 55 been disapproved, using several of the administrative approaches analyzed in this action, namely the removal of our internal standard of monitoring 80 percent of discards at a 30-percent CV and using multiple years of data to determine target ASM coverage levels. We support the Council's efforts to evaluate groundfish monitoring programs through our membership on the Groundfish PDT, the Groundfish Committee, and the Council.

*Comment 18:* TNC opposed changes to the method used to set the target coverage level for the industry-funded ASM program, citing the executive summary in the draft EA, which stated that we will likely miss the 30-percent CV standard.

*Response:* We clarify that we are approving a method to set the target ASM coverage level, but we are not changing the requirements to achieve the 30-percent CV precision standard and meet the goals and objectives of the monitoring program. As stated in the preamble to the proposed rule, we expect that the Framework 55 changes in the method used to set the ASM target coverage level will result in target coverage levels that will meet the 30-percent CV precision standard and will reliably estimate catch. We also expect that the 2016 target coverage level of 14 percent announced in this action will achieve results consistent with prior years.

The commenter cites an inaccurate portrayal of the intent of the measures contained in the text of the draft version of the EA. The text states that we will likely miss the 30-percent CV standard, but these measures were always intended to meet the 30-percent CV standard and the monitoring goals and objectives of the FMP. We released an advance draft of the EA to support the publication of the proposed rule prior to completing our full review process. We are not required to finalize the EA at the proposed rule stage, but have routinely published draft EAs in the past to allow the public time to consider and comment on the full range of potential impacts of actions under consideration in our region. We have clarified our intent for these measures in our development the final EA. Our proposed rule and this final rule provide the analysis for our conclusion that we expect the method used to set the target ASM coverage level, and the 14-percent 2016 target coverage level, to meet the 30-percent CV precision standard

specified in the Northeast Multispecies FMP. We have not changed our requirement to ensure that the target coverage level will achieve the required CV standard. If the target coverage level resulting from this method was too low to ensure we would achieve the 30-percent CV standard, we would set a different target coverage level to achieve that standard.

*Comment 19:* Oceana, EDF, and TNC questioned the effectiveness of the 30-percent CV standard as a mechanism for setting monitoring levels, and commented that this precision standard may not accurately determine sector catch and ACE utilization. These commenters noted the worsening retrospective patterns in the assessments, and that overfishing occurred every year that the ASM program met the 30-percent CV standard, even as reported landings and discards stayed below ACE levels. EDF highlighted that lower coverage levels will undermine stock assessments and lead to overfishing, which violates National Standard 1. EDF and Oceana noted that the changes included in Framework 55 violate our obligation under the Magnuson-Stevens Act to "assess and specify the present . . . condition of the fishery" and "assess the amount and type of bycatch" occurring in the fishery. EDF also asserted that additional reporting mechanisms meant to support the ASM program, such as vessel and dealer reports, and enforcement mechanisms, are not working.

*Response:* Framework 55 does not alter Amendment 16's primary goal for ASM monitoring to verify area fished, catch, and discards by species, by gear type. Rather, it underscores it. Framework 55 further clarifies that Amendment 16's goals and objectives as identified in Framework 48 must meet this goal by the most cost-efficient means practicable. This is consistent with the Magnuson-Stevens Act requirement to take into account cost considerations without compromising conservation. To effectuate this goal, the specific ASM measures included in Framework 55 are narrowly focused on adjusting the method used to set the target coverage level for the industry-funded ASM program in order to meet the 30-percent CV requirement, among the other existing goals and objectives of the program. During the development of Framework 55, we advised the Council that any larger changes to the ASM program would likely require an amendment rather than a framework adjustment.

Framework 48's goals and objectives for the ASM program include

performing periodic reviews of the monitoring program's effectiveness. Framework 55 does not change this goal, and we agree with the commenters that review should include evaluating the groundfish monitoring program beyond this action, including whether the 30-percent CV standard is the most appropriate way to set ASM coverage levels. NMFS, and now industry, are both devoting considerable financial resources to achieving this precision standard, and it is important to fully consider whether this expenditure is appropriate to meet the groundfish monitoring goals and objectives. Further evaluation is also warranted in light of the 2015 assessment results, potential changes in the fishery since 2010, and now that the sector program has been operational for over 5 years. As noted in previous responses to comments, this evaluation must occur through the Council, and is already underway.

We agree with the commenters that an evaluation of the ASM program must include a review of its performance for providing data for stock assessments and reducing management and/or biological uncertainty, along with all of the other goals and objectives identified by Framework 48. The CV standard, however, only sets the level of precision that will be achieved through catch sampling. A precision standard for at-sea monitoring by itself cannot account for the entirety of scientific and management uncertainty. For example, we recognize that overfishing is still occurring for many groundfish stocks despite the fact that we have met the CV standard, and ACL overages have not occurred. A 2013 NMFS publication (Methot, R. 2013) discusses this possibility, and explains "that scientific and management uncertainty mean that simply setting targets below limits does not necessarily prevent the stock from experiencing overfishing" (p. 63). The overfishing status of a stock can be based on an estimate of fishing mortality compared to the threshold, or catch being greater than OFL. However, because the fishing mortality threshold and the OFL are based on estimates, they cannot perfectly reflect what is happening to the fish stock. Further, overfishing can be caused by a number of factors, including a lack of effective management controls and scientific uncertainty in fishing mortality estimates or environmental factors. As is the case with many groundfish stocks, new scientific information and updated assessments have changed the perception of stock status from when catch limits were specified.

As the commenters point out, achieving a certain level of precision

around the discard estimate does not guarantee that overfishing will not occur. Rather, the suite of management measures used for any fishery is designed to minimize the probability that overfishing occurs. Assuming that the ACLs are set correctly, the groundfish sector program includes an array of accountability measures beyond monitoring, such as restricted gear areas and common pool trip limits. These measures are regularly evaluated and adjusted in response to updated scientific information to ensure they are meeting their intended goal. The buffer between the OFL and ABC can also be adjusted to better account for scientific uncertainty, and the SSC frequently uses this approach to set groundfish catch limits. We will continue to use the information in the assessments to adjust catch limits and management measures to prevent overfishing.

EDF and Oceana noted that the changes included in Framework 55 violate our obligation under the Magnuson-Stevens Act to “assess and specify the present . . . condition of the fishery” and “assess the amount and type of bycatch” occurring in the fishery. However this requirement is satisfied by the Greater Atlantic Region SBRM, not the ASM program. The sector ASM program is a separate program with distinct goals. Providing additional data for stock assessments is one of the goals of groundfish monitoring programs and is considered when evaluating the ASM program and setting the target coverage level. This statement is not meant to diminish the information benefits the ASM program provides for stock assessments, but is meant to clarify that the changes to the ASM program in Framework 55 are not in violation of our SBRM requirements under the Magnuson-Stevens Act.

Last, we do not use the CV standard alone to reliably estimate catch. There are many reporting requirements that vessels adhere to, and there are strong incentives for vessels to report accurately. Enforcing reporting requirements is currently a high priority for the Northeast Division of the NOAA Office of Law Enforcement, and the threat of a civil or criminal enforcement action creates a strong incentive for compliance. There is also a strong incentive for sectors to promote internal compliance, because a sector and the fishing businesses in a sector can be held jointly and severally liable for overages and misreporting of catch, including both landings and discards. The percent of overall catch composed of discards has a larger impact on monitoring ACLs than the 30-percent CV standard. Landings remain the

largest portion of catch for allocated stocks and are reported by dealers, vessels, and sectors.

Despite uncertainty that exists in assessments and the degree of imprecision in monitoring inherent in the 30-percent CV standard, we will continue to use the information in the assessments to adjust catch limits and management measures to prevent overfishing. National Standard Guidelines recognize that scientific and management uncertainty exists and requires consideration of, and accounting for, such uncertainty when setting catch limits.

To that end, significant additional uncertainty buffers are established in the setting of ACLs that help make up for any lack of absolute precision and accuracy in estimating overall catch by sector vessels. Although the commenters focus on uncertainties in assessments that merit consideration when evaluating the information provided by the ASM program in future actions, the commenters provide no concrete evidence of a link between Framework 55's coverage target adjustments to our ability to adequately monitor sector catch and provide information sufficient for assessments. We conclude that sector monitoring requirements overall, including the adjustments to the method used to set the ASM coverage level, are sufficient to monitor sector ACE and prevent overfishing.

*Comment 20:* Oceana, EDF, TNC, and PERC expressed fear that the ASM coverage level for 2016 will be too low, will incentivize illegal discards, and will create harmful bias. Oceana and EDF cited numerous Groundfish PDT analyses that identified the likelihood of observer bias (*i.e.*, behavioral differences between fishing trips with or without an observer). EDF argued that lease prices and recent cod discard rates are evidence that discarding is high in the groundfish fishery, and is likely resulting in catch in excess of the annual catch limits.

*Response:* The ASM portion of sector monitoring program relies on the assumption that calculated discard rates on observed trips can be applied to unobserved trips. However, if vessel operators discard fish at higher rates when there are no observers on board, then catch (and overall mortality of fish) will be higher than estimated. For the 2013–2015 fishing years, we have published a summary report explaining and justifying the ASM coverage level needed to monitor catch levels for each year (<http://www.greateratlantic.fisheries.noaa.gov/aps/monitoring/nemultispecies.html>). The summary

report includes the most recent considerations of accuracy related to the ASM program, both completed during the 2012 fishing year. Oceana and EDF both cite the major analyses on accuracy done in support of ASM coverage levels, namely a NMFS analysis evaluating the possibility of an observer effect in monitoring discards in the groundfish fishery, and a NMFS analysis on the probability of exceeding catch limits based on a hypothetical increase in the rate of discarding on unobserved trips. Overall, the available analyses suggest that potential biases in ASM data do not negate the utility of the discard estimates provided by the program.

EDF cites our analysis of at-sea monitoring requirements for the Northeast multispecies sector fishery, but draws the unsupported conclusion that discarding increases on unobserved trips. An analysis contained in that report examined if there were indications of an observer effect on groundfish trips that could result in either systematic or localized biases, which would suggest that observer data used to generate discard estimates may not be representative. This study evaluated whether differences in performance occur when a vessel carried an observer and when it did not. The study found evidence for some differences in fishing behavior between observed and unobserved groundfish trips; however, the analysis could not conclude whether the apparent differences would necessarily result in discard rates on unobserved trips that are different (higher or lower) than on observed trips. If the discard rate is unchanged, then the apparent differences would not affect total discard estimates.

Oceana cited another NMFS analysis, included in the same ASM summary report, which found that even if there is some bias that increases unreported discards, the discard rate for the groundfish sector trips studied would need to be five to ten times higher on unobserved trips to appreciably increase the risk for total catch to exceed the ABC or OFL. None of the analyses conducted to date suggest behavioral differences on observed versus unobserved trips of this magnitude. Neither commenter provides evidence of the magnitude of potential discarding. The analysis concluded that, given that landings are below the total sector ACLs, setting a monitoring coverage level that meets the 30-percent CV requirement at the stock level provides a reasonable level of certainty that observer bias would have to be much larger than plausible before the risk of exceeding the OFL would exceed



5 percent. Based on the discussion in these analyses, we have not recommended an adjustment to the target ASM coverage level, or to other monitoring requirements, to address bias in this and past fishing years because there is no scientific information available at this time to estimate a reliable adjustment factor.

None of the commenters provided information showing that a reduction in the target coverage level will coincide with or cause increased bias involving increased discards on unobserved trips, or the magnitude of any such increased discards. EDF commented that there is an economic incentive for a vessel to fish differently when an observer is on board. There may be economic incentives to discard stocks with low catch limits to avoid reaching those limits. It is unclear, however, whether and how this incentive changes as target monitoring levels increase or decrease, or when a vessel is required to pay for an at-sea monitor's services and warrants further review when evaluating the ASM program. For example, at the June 2015 Council meeting during the development of Framework 55, EDF commented that observer bias was due to NMFS subsidizing ASM costs for industry since 2010. Because sectors have not had to pay for ASM, EDF noted the incentive for bias exists to catch less on observed trips. This argument posits that the bias incentive occurs when fishermen do not pay for ASM services, presumably because they can better afford a trip that avoids discarding and results in less catch. Based on this argument, one may equally infer that, when industry pays for ASM, their economic incentive to fish differently on monitored trips may change. In the absence of any studies or analysis to support these conclusions, or that show the magnitude of any such incentives and changed behavior, we have no reasonable basis for setting different coverage target rates or using a different method than provided for in this action. We have determined that changes to the method used to set the target ASM coverage level, and the resulting 14-percent coverage level set for fishing year 2016, are expected to reach a 30-percent CV, and will provide accurate and precise enough discard estimates to monitor sector ACEs and ACLs.

Finally, EDF and TNC argue that the low GOM cod catch and ACE lease price in the 2015 fishing year is evidence that vessels are illegally discarding GOM cod on unobserved trips. This allegation is based on many assumptions about the abundance, distribution, and catchability of GOM cod, and the ability

of vessels to avoid GOM cod. EDF and TNC ignore the simplest logical deduction, that if the stock assessment has accurately characterized the abundance of GOM cod as truly low and the population as highly concentrated, and that vessels are successfully avoiding GOM cod, then we would expect to see a decline in catch and resultant decrease in ACE leasing price.

Amendment 16 specified that ASM coverage levels should be less than 100 percent, which requires estimating the discard portion of catch, and thus total catch. While it is required that the overall ASM coverage level must meet at least a 30-percent CV precision standard, that level of coverage also must minimize effects of potential monitoring bias to the extent practicable while maintaining as much flexibility as possible to enhance fleet viability. In order to assure perfect accuracy (*i.e.*, zero bias), 100-percent observer coverage would be required. However, complete coverage is not only prohibited by Amendment 16, but would be expensive, not in the public interest, and inconsistent with National Standards 5, 7, and 8.

Ultimately, the target ASM coverage level should meet the 30-percent CV standard and provide confidence that the overall catch estimate is accurate enough to ensure that sector fishing activities are consistent with National Standard 1 requirements to prevent overfishing while achieving on a continuing basis optimum yield from each fishery. We have determined that applying the method we approve in this action to set the 2016 target coverage level of 14 percent will meet this goal. Our determination incorporates all of our sector monitoring and reporting requirements, including obligations on sectors to self-monitor and self-report, which is linked to Agency monitoring. For the most part, the commenters have generally asserted that this system and level of monitoring is not adequate without providing any specific justification or information to support their assertion. As noted in other responses, this action does not specify a fixed ASM coverage target for all future years, and only refines the process we use for predicting the level of ASM coverage necessary in a given year to achieve the 30-percent CV requirement. In comparison to previous years, the refinements made in this action could lead to lower, or higher, ASM coverage target rates in future years.

We agree that it would be beneficial to complete additional analysis of the potential sources of bias. However, it is difficult to quantify bias, or make

definitive conclusions on these types of analyses, because data must be used to infer activity that may not be observed or documented. Available analyses suggest that bias is not likely to undermine our ability to monitor ACLs. We support the continued improvement of available analyses, especially in light of the recent declines in groundfish catch limits, and expect that as additional data become available, these types of analyses will improve.

*Comment 21:* EDF commented that the only accountability measure in the groundfish fishery is the pound-for-pound payback provision.

*Response:* Framework 55 did not address groundfish accountability measures, and this comment is outside the scope of this action. Nonetheless, we disagree that the only accountability measure in the groundfish fishery is the pound-for-pound payback provision. That provision is only one of a complex set of proactive and reactive accountability measures designed to prevent overfishing. These measures were implemented in Amendment 16, and modified through a number of subsequent framework adjustments. The accountability measures include inseason closures and possession limit adjustments, area closures, and selective gear requirements in addition to the pound-for-pound payback provision. These measures are required to comply with the Magnuson-Stevens Act and reflect the spectrum of AMs recognized in the National Standard 1 guidelines.

*Comment 22:* CLF suggests abandoning ASM and relying instead on only VTRs.

*Response:* We disagree. We have determined the adjustments to the method used to calculate the target ASM coverage level will result in coverage levels that will provide information comparable to past years. In addition, we expect the 14-percent target ASM coverage level approved in this action will achieve the 30-percent CV requirement. As noted elsewhere in our responses, the ASM program is only one component of a larger sector monitoring system designed to ensure that sector catch stays below ACLs. As a result, the overall system, including NEFOP coverage, ASM, VTRs, dealer reports, and other factors, provides benefits over relying only on VTRs for catch monitoring.

*Comment 23:* EDF comments that low levels of monitoring will have a direct negative impact on enforcement.

*Response:* We disagree that ASM levels will negatively affect enforcement. ASM is not part of our enforcement program. At-sea monitors are aboard vessels strictly for data



collection. To the extent that the presence of at-sea monitors on fishing trips encourages compliance, it is a benefit, but is not the goal or objective of placing monitors aboard vessels.

*Comment 24:* EDF claims that ASM reductions will have the greatest impact on non-allocated stocks.

*Response:* We agree that reductions in ASM coverage levels may disproportionately affect our catch estimates for non-allocated stocks because catch for these stocks is mostly comprised of discards. However, we expect that the approved adjustments to the method used to calculate the target ASM coverage level and the resulting 14-percent target coverage level for 2016 announced in this action will achieve the required 30-percent CV on discard estimates for all groundfish stocks. Looking back at the coverage levels required to meet a 30-percent CV for the five non-allocated stocks, coverage levels under roughly 8 percent would have resulted in a 30-percent CV in each year from 2010 to 2014. In each year from 2010 to 2014, catch of Atlantic halibut, ocean pout, and wolffish was below the ACL. The Council addressed ACL overages for the windowpane flounder stocks with reactive accountability measures by requiring the use of selective trawl gear. Nonetheless, because these stocks have the potential to be most impacted by the changes in Framework 55, they will need to be a focal point of consideration of the Council's efforts to revise groundfish monitoring programs.

*Comment 25:* EDF recommends increasing management uncertainty buffers to account for the additional uncertainty that will result from lower ASM coverage levels. They allege that reducing ASM without adjusting uncertainty buffers violates the Magnuson-Stevens Act and is arbitrary and capricious. They assert that the Agency can no longer rely on the assumption that discarding is minimal, and that observer bias can be estimated to an effect of nearly zero as justification for not adjusting management uncertainty buffers.

*Response:* Each time catch limits are set, the PDT reviews the management uncertainty buffers used for each fishery component and recommends necessary adjustments. For Framework 55, the PDT reviewed the current management uncertainty buffers, as well as previous analysis completed in support of Framework 50.

Both the PDT and the Council have periodically discussed the possibility of increasing the buffers due to evidence that fishing behavior may differ on observed and unobserved trips, possibly

resulting in an underestimate of discards. However, to date, there is no scientific basis for determining either the direction or magnitude of bias sufficient for the PDT to estimate the amount of suspected bias on unobserved trips. As a result the PDT has been unable to determine whether any adjustments to the existing buffers would be warranted to address potential bias. The PDT concluded that no new information is available at this time that would warrant any changes to the buffers previously adopted in Framework 50, and recommended no changes to the management uncertainty.

The commenters provide no quantitative evidence of a specific amount of unobserved discarding, and do not suggest a method to quantify bias in order to adjust the management uncertainty buffer. As stated above, we agree that it would be beneficial to complete additional analysis of the potential sources, magnitude, and direction of bias. However, it is difficult to quantify bias, or make definitive conclusions on these types of analyses, since data must be used to infer activity that may not be observed or documented. Thus, at this time, we are not able to reasonably determine an appropriate adjustment to the management uncertainty buffer than is already used. Using the best scientific information available is neither arbitrary, nor capricious, but is consistent with the National Standards.

*Comment 26:* Commenters make various claims about the economic analysis of the ASM program. Oceana claims that, though the adjustments in Framework 55 are built on the Council's desire to control ASM costs, the economic analysis shows that the estimated declines in groundfish revenues on groundfish trips when comparing both the "No Action" alternative (41 percent target ASM coverage) to the adjusted program (14 percent target ASM coverage) are virtually identical when compared to predicted groundfish revenues for the 2015 fishing year. They conclude that substantial changes to the ASM program to minimize costs are not even achieving that goal. EDF points out that the cost savings of adjusting the ASM program as proposed is overestimated because sectors are able to negotiate lower rates for ASM. Finally, EDF notes that the IRFA and economic analysis fail to analyze the cost of lower monitoring in the potential form of overfishing or on the leasing market.

*Response:* Oceana correctly notes that the model results indicate that gross revenues are predicted to be essentially unchanged when comparing 14 percent

ASM coverage to 41 percent ASM coverage. This does not, however, reflect the change in costs or profitability of those revenues. Section 7.4 of the EA contains the economic analysis done in support of this action; details of the economic analysis are not repeated here. The model is intended to capture fishery-wide behavior changes related to both catch limits and other management changes such as ASM coverage levels, and can overestimate landings in a number of circumstances. The EA highlights that the predicted groundfish revenue is nearly identical when there is 14 percent ASM coverage (\$52.4 million) and 41 percent ASM coverage (\$52.3 million), and attributes this finding to the model assumptions. The economic model simulates fishing activity until all quotas have been reached in all broad stock areas, and assumes that ACE flows freely from lessor to lessee (which underestimates trips costs). Within the model, trips that become unprofitable due to ASM costs are not selected. Because of this, one might expect revenues to decline more substantially with higher ASM coverage levels. However, as more trips are unprofitable under the options with industry-funded ASM, the model is forced to select a greater number of profitable trips. With higher ASM coverage levels (and higher ASM costs), more sector trips become unprofitable. As the ACE from these trips that are no longer profitable flows to another sector member, then revenue from these trips is still realized in the model. The result is that revenues appear nearly equal between options with 14 percent and 41 percent ASM coverage. In reality, because ACE does not flow freely between sectors, and not all vessels can opt for all types of trips, higher ASM coverage levels may in fact reduce gross revenues.

The analysis in the EA assumes ASM costs are \$710 per seaday, based on the cost that NMFS was able to negotiate with service providers. As EDF points out, sectors were successfully able to negotiate lower seaday costs for ASM. However, the fact that sectors were able to negotiate lower costs does not diminish the significant economic impact of the industry-funded ASM program on individual fishery participants and sectors. Our economic analyses predict economic impacts for average vessels in different size classes, or the fishery as a whole, but could mask very real economic impacts at the vessel or community scale.

We disagree with the comment that the EA fails to consider the costs of lower monitoring in the form of overfishing. Section 7.4 of the EA

discusses that it is not possible to determine the overall economic benefits of ASM at this time. The EA notes that, while increased coverage can improve discard estimates, the marginal value of each percent increase in ASM coverage is unknown. We agree that additional analysis is warranted to attempt to determine the marginal benefits of the ASM program in terms of the stock biology. Until additional information is available, we will continue to implement the existing groundfish monitoring program, and will continue to set ASM coverage levels that meet the program goals and precision standards. Similarly, for the leasing market, the EA concludes that additional precision may or may not lead to changes in available ACE to a sector (*i.e.*, assumed discards were too high or too low). Thus, the marginal value of added precision from each percent increase in ASM coverage is unknown. The NEFSC conducts annual retrospective analyses of the leasing market in its groundfish fishery performance reports. The most recent version of the report, which analyzes the 2013 groundfish fishing year, is available here: [http://www.nefsc.noaa.gov/read/socialsci/pdf/groundfish\\_report\\_fy2013.pdf](http://www.nefsc.noaa.gov/read/socialsci/pdf/groundfish_report_fy2013.pdf).

*Comment 27:* EDF notes that Framework 55 fails to analyze the possibility of reducing costs to fishermen by using electronic monitoring, consistent with RFA requirements. EDF and TNC both urge NMFS to expedite the implementation of electronic monitoring and reporting programs, and that electronic monitoring would reduce uncertainty in catch data and improve stock assessments at a lower seaday cost than ASM.

*Response:* Last year, in collaboration with the Gulf of Maine Research Institute (GMRI), Archipelago Marine Research, Ltd., Saltwater, Inc., and EcoTrust Canada, we developed an assessment of the potential costs of an electronic monitoring program for a hypothetical Northeast multispecies fishery sector, and compared it to the costs of the existing ASM program, which it could replace or augment. We are also in the process of updating that assessment. Based on how an electronic monitoring program is designed and implemented, video review and storage costs can be substantial. Thus, we do not agree with the commenter's characterization of the potential cost savings with electronic monitoring at this time. The commenters promote the potential for lower costs with electronic monitoring than with at-sea monitors, but provide no cost estimates to substantiate the claim that it is less

expensive than ASM. Electronic monitoring costs will be determined largely by the purpose and scope of particular electronic monitoring coverage and the available technology to meet those needs.

The Northeast Multispecies FMP already allows sectors to use electronic monitoring in place of at-sea monitors if the technology is deemed sufficient for a specific trip, based on gear type and area fished, if approved by NMFS. We had been working with TNC, GMRI, EcoTrust Canada, and several sectors for the last year, to implement a program that would have used electronic monitoring to monitor the fishery. We have approved an exempted fishing permit to allow a number of sector vessels to participate in an experiment using electronic monitoring in lieu of ASM to further develop a program based on electronic monitoring for sectors. NMFS will continue to support development of electronic monitoring as a potential tool where it is fitting and appropriate.

*Comment 28:* EDF and TNC suggests that NMFS should have considered the weighted discard proportional approach, as published by Dr. Jenny Sun, as an alternative to lowering the overall target ASM coverage level in Framework 55. EDF also notes that this method may reduce cost to small entities, and thus address requirements of the Regulatory Flexibility Act (RFA).

*Response:* The PDT has discussed this approach at meetings in September 2012 and from May–August 2015; however, the Council did not elect to consider this approach in past actions, or as an alternative in Framework 55, because it did not meet all of the goals and objectives in Amendment 16 and Framework 48. This approach assigns ASM coverage proportional to the weight of discards anticipated on a given trip, and does not include consideration of the 30-percent CV requirement specified in the regulations. At both times, the PDT concluded that more trips would require coverage than those included in the proposed analysis, which would erode some of the cost savings in the proposed approach. The PDT also discussed that allocating ASM coverage to focus on larger, offshore vessels that account for more of the discards would potentially lead to under-coverage of sectors with smaller, inshore vessels that are responsible for catch of species of concern, such as GOM cod and SNE/MA yellowtail flounder, as well as unallocated stocks with zero possession. The PDT, other NMFS reviewers, and several commenters have noted that the objective of the ASM program is not

simply to determine the lowest cost approach to observe the most catch across the groundfish sectors in total, or to only reduce the costs of monitoring to small vessels. Rather, the objective is to achieve sampling that ensures precise and unbiased real-time estimates of catch by stock, sector, and gear. This weighted approach would also have to address cost discrepancies in imposing ASM coverage primarily on larger, offshore vessels over smaller vessels, inshore vessels.

Dr. Sun recently published a peer-reviewed article (Sun and Fine, 2016) that included additional adjustments to the approach, in which coverage is further weighted to account for stocks with high utilization. This article was published on December 29, 2015, after the Council developed and took final action on Framework 55. The Groundfish PDT received a presentation on the revised analysis at its March 30, 2016, meeting, and intends to review this approach, along with other monitoring approaches, as part of the development of the forthcoming groundfish monitoring amendment. The Council can choose to further develop this approach if it meets the Council's goals and objectives for groundfish monitoring programs. We reiterate that adopting this approach to groundfish monitoring would require a Council amendment, because it would change the objectives and standards for the groundfish monitoring program established in Amendment 16 and Framework 48.

As stated elsewhere in this rule, this action does not specify a fixed ASM coverage target for all future years, and is not approving a lower target ASM coverage level in perpetuity. Rather, this action refines the process we use for predicting the level of ASM coverage necessary in a given year to achieve the 30-percent CV required. In comparison to previous years, the refinements made in this action could lead to lower, or higher, ASM coverage target rates in future years. Thus, while the Council and our analysis considers the impacts of a reduced ASM coverage level for 2016, we do not necessarily expect that the lower coverage level will persist for future fishing years.

*Comment 29:* EDF and Oceana claim that the changes proposed in Framework 55 ignore National Standard 1 in favor of National Standard 7. EDF notes that costs may only be considered when two alternatives achieve similar conservation goals. EDF and TNC note the EA states that reducing ASM coverage will have negative biological impacts compared to the No Action alternative.

*Response:* The Framework 55 adjustments to the method used to set that target ASM coverage level achieve the required Northeast Multispecies FMP precision standards without compromising conservation goals. The 30-percent CV standard, and the requirement under Amendment 16 to sufficiently verify area fished, catch, and discards by species, by gear type, remain unaltered. Framework 48 clarified the objectives of Amendment 16's ASM program to ensure that ASM coverage levels must be consistent with the goals and objectives of groundfish monitoring programs, the National Standards, and the requirements of the Magnuson-Stevens Act, including but not limited to costs to sector vessels and NMFS. This is consistent with Amendment 16's goals of achieving economic efficiency and minimizing adverse impacts to fishing communities that are included in Framework 48's goals of reducing monitoring costs and balancing actual costs against the opportunity costs of insufficient monitoring. Framework 55 simply further clarifies that monitoring must be implemented in the most cost-efficient means practicable.

In addition, the goals of Amendment 16 and Frameworks 48 and 55, are consistent with our requirement to take into account the National Standard, and in particular National Standards 1, 2, 5, 7, 8, and 9 in making our determination of the appropriate level of ASM coverage for sectors on an annual basis. These National Standards specifically speak to preventing overfishing; using the best scientific information available; efficient use of fishery resources; minimizing costs, and avoiding duplications where practicable; taking into account impacts on fishing communities; minimizing adverse economic impacts to the extent practicable; and minimizing bycatch and bycatch mortality to the extent practicable.

We agree that the EA characterizes the impacts of lower ASM coverage levels as negative compared to higher ASM coverage levels. The EA notes that positive impacts of higher ASM coverage levels could include better information for stock assessments and reduced uncertainty around discard estimates. However, any quantification of the magnitude of these types of benefits is speculative, and can only be discussed as marginal because it is not yet possible to quantify the biological outcomes relative to the information gained with each additional percentage of monitoring coverage. A similar concept is highlighted in the economic analysis in section 7.4 of the Framework

55 EA, in terms of the overall benefit of added precision in discard estimates. The EA notes that the marginal value of added precision from each percent increase in ASM coverage is unknown. Hence, the EA describes any impact potential as low.

We have generally characterized the benefits of higher monitoring coverage levels as positive compared to lower monitoring coverage levels in other actions in this region (e.g., the joint New England/Mid-Atlantic Council Industry-funded Omnibus Amendment), and have largely tied this positive benefit to the potential for improvements in stock assessments and on the types of management measures that may be necessary to address bycatch. However, as we have discussed in these related analyses, there are several reasons why these types of potential downstream effects (e.g., improvements to stock assessments) are considered too remote and speculative to be evaluated quantitatively.

First, this action adjusts the method used to set target ASM coverage levels. The adjustments to the method used to set target ASM coverage levels do not, by themselves, automatically allow for higher ASM coverage in future fishing years. While increases in target ASM coverage levels may be expected to improve data quality, realization of an increase in the target coverage level compared to past fishing years depends on the coverage levels generated by the changes approved in this action. As noted elsewhere in this section, in comparison to previous years, the changes in this action could lead to lower or higher ASM coverage target rates in future years. Thus, while the Council's and our analysis considers the impacts of a reduced ASM coverage level for 2016, we do not necessarily expect that the lower coverage level will persist for future fishing years.

Second, in addition to the uncertainty of what target coverage rates will be set in future years, the potential effects of increased data deriving from a method setting target coverage rates are too remote and speculative to be quantitatively evaluated in the EA because there is no way to predict the effect that an improvement in data quality would have for managing the groundfish fishery. Improvements in data quality would give assessment scientists and fishery managers more confidence in the data. However, there is no way to predict the type of new information that would arise from future catch estimations (e.g., higher or lower discard estimates). Because changes in direction of catch estimation cannot be predicted at this time, there is no way

to predict whether changes in management would be required to address any potential issues that may arise.

Thus, while acknowledging that it is not possible to quantify the biological benefit for higher coverage, the EA makes conclusions concerning environmental impacts from lower or higher coverage based on the idea that more information from monitoring tends to reduce uncertainty in setting catch limits and assessments. However, by this principle alone, and without consideration of other factors, one would be required to conclude that coverage rates should never be reduced, and should always be increased if possible. To underscore the imprudence of following this logic, in similar fashion one could conclude that fishing should always be reduced because less fishing mortality generally benefits fish stocks. The National Standards, Amendment 16, and Frameworks 48 and 55 require consideration of other factors, however. Specifically, we must consider the efficient use of resources for monitoring catch limits and preventing overfishing. In this instance, we have considered the target coverage rate required to monitor catch rates in the most efficient manner practicable. While one may conclude that a generally higher coverage rate may provide more catch information that would potentially reduce uncertainty, any potential benefit to fish stocks in the future from more information is more attenuated than the sufficiency of the information for the immediate task of monitoring of catch limits and the cost benefits that come from the efficient use of monitoring resources to achieve that purpose. We are required by law to consider these other factors when determining a rate of coverage that meets conservation requirements.

*Comment 30:* EDF claims that the Agency failed to explain its decision to depart from the 80-percent of discard pounds observed at a 30-percent CV standard, and that it is arbitrary and capricious for the Agency to remove this standard without explaining why.

*Response:* We disagree that we failed to explain our decision to depart from this discretionary, administrative standard. As discussed in the proposed rule, and in the Summary of Analyses Conducted To Determine At-Sea Monitoring Requirements for Multispecies Sectors for Fishing Year 2015 (available here: <http://www.greateratlantic.fisheries.noaa.gov/aps/monitoring/nemultispecies.html>), we had previously concluded that it is desirable to maintain a 30-percent CV or better for at least 80 percent of the

discarded pounds in the fishery. We applied this standard in the initial years that the ASM program operated for a number of reasons. First, the program was new, and we lacked experience and data. In the initial years that the program was implemented, when we did not have coverage information from previous years, this standard was chosen to guide setting target ASM coverage levels to achieve results consistent with the initial monitoring year, when the realized observer coverage was highest. When Federal funding was available to cover industry costs for the ASM program, we could justify applying a discretionary standard that resulted in higher coverage levels than required by the program because it did not impose an additional economic burden on industry.

During the development of Framework 55, using coverage information that was unavailable when the administrative standard was first adopted, the PDT reevaluated this administrative standard, and determined that it was not necessary to accomplish the goals of the ASM program. As noted in the proposed rule, this standard is not necessary to satisfy the CV requirement of the ASM program to accurately monitor sector catches, or meet the other monitoring program goals, and it was not required by the Northeast Multispecies FMP. Further, imposing a standard that results in coverage higher than necessary to meet the program goals would not be consistent with National Standards 5, 7, and 8, which relate to efficiency in the use of fishery resources; minimizing costs and avoiding duplications where practicable; efficiency in the use of fishery resources; and taking into account impacts on fishing communities and minimizing adverse economic impacts to the extent practicable. Removing this administrative standard makes the method used to set the target ASM coverage level more efficient, while still addressing groundfish monitoring program objectives.

*Comment 31:* Oceana claims that enlarging the data set used to include the volatile, anomalous period from 2012 to 2014 is inappropriate for setting coverage levels. Oceana asserted that we failed to provide evidence supporting the claim that this longer period is a better foundation for forecasting monitoring than most recent complete year. They go on to say that using an averaged approach ignores the fact that the dynamics of the fishery have led to a different stock driving the ASM coverage level in each year to date. They assert that using multiple years of data violates National Standard 2 because it

would amount to using an unrepresentative sample of the data. Finally, they claim that the multiyear approach is not able to respond to emergent trends in the fishery in a timely fashion. They assert that NMFS must retain the ability to respond to changes in fishing behavior quickly to ensure accurate and precise fishery monitoring.

*Response:* We disagree. Currently, the coverage level for year 3 is set prior to the end of year 2, using data from year 1 because that is the most recent complete set of data available. Because of this need to plan ahead using older data, relying on a single year of data does not necessarily give us a more accurate representation of current or future conditions than using three years of data. Looking at 5 years of data from fishing years 2010–2014, it is clear that the stock with the greatest variability in discards, and greatest need for ASM coverage, not only varies from year to year, but the species requiring the most ASM coverage in year 3 has never been accurately predicted by year 1 data.

Section 7.1 of the Framework 55 EA compares the performance of basing the target coverage level on 1 year of data to 2- and 3-year averages to evaluate their ability to predict the coverage level necessary to achieve a 30-percent CV in 2014. To predict the target coverage level using 1 year of data, the 2012 target coverage level was used to predict the coverage necessary to achieve a 30-percent CV for 2014. For the 2-year average, data for 2011–2012 was used. For the 3-year average, data from 2010–2013 was used. Overall, the 3-year average performed relatively well compared to using a single year, or 2-year average. The EA acknowledges that, because the ASM program only started in 2010, there are a limited number of years of data available to make this comparison, and that more years of data and analysis are necessary to make the final conclusion regarding the most appropriate approach. Therefore, using multiple years of data may reveal true trends while minimizing non-significant fluctuations, which provides for additional stability for industry consistent with National Standards 5 and 8.

In addition, averages are routinely used in fisheries management to smooth interannual variability. In the Greater Atlantic Region, the recreational fisheries for GOM cod, GOM haddock, summer flounder, scup, and black sea bass base the determination of whether catch has exceeded the recreational sub-ACL by comparing the 3-year moving average of recreational catch to the 3-year moving average of the recreational

sub-ACL. For overfished skate species, the 3-year average of the appropriate weight per tow from the trawl survey index is used as a proxy for stock biomass, and is a trigger to indicate whether the additional management measures are necessary to promote stock rebuilding. We have determined that using three years of data will minimize unnecessary fluctuations in the target ASM coverage level while meeting our need to reliably estimate discards.

*Comment 32:* Oceana commented that exempting extra-large mesh gillnet trips from ASM coverage in Broad Stock Areas 2 and 4 could increase uncertainty around bycatch estimates for protected resources in locations that are especially prone to protected species interactions.

*Response:* First, the Greater Atlantic Region has observer programs explicitly funded to support Marine Mammal Protection Act (MMPA) and Endangered Species Act (ESA) information requirements. The MMPA and ESA observers are allocated across fisheries based on the estimated likelihood of protected resources interactions. Allocation of observers related to these acts is separate from the allocations of observers under our region's SBRM program and the ASM program.

We agree that ASM has provided a wealth of information about protected species interactions in commercial fishing gear, particularly in the extra-large mesh gillnet fisheries. The full discussion of the protected species impacts of this alternative is provided in the EA in Section 7.3.3.1.4, and is not repeated in full here. In terms of data collection, the EA notes that removing the ASM coverage requirement for these trips may reduce the amount of information available on protected species interactions in extra-large mesh gillnet gear. From 2010–2014, the number of hauls observed through the ASM program in the extra-large mesh fishery exceeded the number of hauls observed by traditional NEFOP observers, constituting 60 percent of all observed extra-large mesh hauls. Moreover, ASM documented 63 percent of all protected species interactions in the extra-large mesh fisheries. Data collected on protected species interactions through ASM has also reduced uncertainty in bycatch estimates for almost all gear types used in the groundfish fishery. The EA characterizes this potential reduction in information benefits on protected resources interactions in extra-large mesh gear as an indirect, low negative impact on protected resources.

In spite of the information collection benefits the ASM program has provided

for protected resources, gathering this information is not included in the ASM program goals and objectives. Thus, any benefits of the ASM program in terms of protected resources information are ancillary to the program goal. We acknowledge that removing the ASM coverage on extra-large mesh gillnet trips may increase uncertainty in protected resources interactions for this gear type. However, now that industry is paying for the costs of monitoring, it is not reasonable to expect for them to pay for the costs of information collection above and beyond the amount required to support the program goals. In addition, discards of all groundfish stocks are still required to meet the 30-percent CV standard, even if certain trips are excluded from coverage.

*Comment 33:* In regards to the alternative that filters the application of the 30-percent CV standard, Oceana asserts that exempting a population from ASM coverage requirements is not permitted in the Northeast Multispecies FMP. They note the proposed rule itself states that none of the proposed adjustments remove the obligation under Amendment 16 and Framework 48 to ensure sufficient ASM coverage to achieve a 30-percent CV.

*Response:* We agree that none of the measures in Framework 55 remove our obligation to achieve a 30-percent CV on all stocks. The measures in this action adjust the process we use for predicting the level of ASM coverage necessary in a given year to achieve the 30-percent CV. The filtering alternative does not exempt stocks from meeting the 30-percent CV standard. Instead, it enacts the Council's policy preference to not use stocks that are healthy and less than fully utilized to predict for the target ASM coverage level for the upcoming year. We are still required to set coverage at a level that is sufficient to achieve the 30-percent CV standard for all stocks and would set a target rate sufficient to achieve this standard and meet the program goals and objectives.

*Comment 34:* Oceana and TNC question NMFS's ability to effectively apply filtering criteria given uncertainty in stock status and catch data. TNC noted that it is inappropriate to set coverage levels based on a current assessment's understanding of stock status when it is likely the stock status will change with next assessment.

*Response:* Consistent with National Standard 2, we base our management decisions, including determinations of stock status and annual catch limits, on the most recent assessment information, which is considered the best scientific information available. Because the information from the stock assessments

and catch data is used as the basis for most other management decisions for groundfish stocks, including annual quota setting and implementation of proactive and reactive accountability measures for each stock, it is entirely appropriate to also base evaluation of the filtering criteria on this information. We cannot base management decisions on the potential that a future stock assessment may indicate that stock status may change. Further, neither commenter provided data to support the assertion that the information we use to make management decisions are so uncertain or of such poor quality as to render it unusable. For these reasons, we have determined it is consistent with National Standard 2 to evaluate the filtering criteria using the most recent available catch data and most recent stock assessment information.

The filtering alternative is designed to be conservative. It does not exempt stocks from coverage necessary to meet the 30-percent CV requirement. Rather, it removes healthy stocks with low utilization and low discards as predictors for the target ASM coverage level. In addition, target ASM coverage levels are evaluated and updated on an annual basis in order to incorporate the most recent available data. This means that, if new stock status or catch information indicates that a stock no longer meets all of the criteria, then the stock must be used as a predictor for target ASM coverage levels for the upcoming fishing year. For example, if, in setting the coverage level for 2017, 2015 redfish catch data indicated that over 75 percent of the groundfish sub-ACL was caught, or more than 10 percent of 2015 catch were comprised of discards, the stock would not be removed a predictor for the 2017 ASM target coverage level. Further, we are required to set target coverage at a level that is sufficient to achieve the 30-percent CV standard and other groundfish monitoring program objectives.

*Comment 35:* TNC asserts that declining target coverage levels since 2010 are especially concerning, given that from 2010 to 2014, realized coverage levels have been less than the target set at the beginning of the year.

*Response:* We disagree with the TNC's concern. Though realized coverage has been less than the target coverage in past fishing years, we have still consistently achieved the 30-percent CV requirement for the vast majority of groundfish stocks in each fishing year. While a target ASM coverage level is expected to generate a 30-percent CV on discard estimates, there is no guarantee that the required coverage level will be

met or result in a 30-percent CV across all stocks due to changes in fishing effort and observed fishing activity that may happen in a given fishing year. Due to fluctuations in fishing activity over the year, it is difficult to deploy observers throughout the year and ensure that target coverage levels are attained. The realized level of coverage was below the target each year, though only slightly in the 2014 fishing year. Despite this, since the start of the ASM program in 2010, the realized annual ASM coverage levels have been more than adequate to achieve the 30-percent CV requirement for a vast majority of the 20 groundfish stocks. Only two stocks had a realized CV above 30 over the past 5 years; and on only two other occasions has a stock approached a CV of 30 during this time. In the 2013 fishing year, SNE/MA yellowtail flounder had a realized CV of 31.45; and in the 2014 fishing year, redfish had a CV of 41.69. Given the biological diversity of the northeast multispecies stocks, the range of quotas, and the varying vessels and gears engaged in the fishery, this record is an indicator of success. In 2014, the high CV for redfish is attributed to a single anomalous trip, which reinforces the value of filtering stocks in future years. If we set the target ASM coverage level for the 2016 fishing year at 41 percent based on that one redfish trip in 2014, we would be unnecessarily tripling our and the industry's costs in a vain attempt to capture a rare event that is unlikely to recur and likely not representative of the groundfish fishery, and would not appreciably increase our ability to effectively monitor the sector fishery.

*Comment 36:* Oceana and EDF commented that the changes in this action should have been included in an FMP amendment instead of a framework because they are substantial and entirely inconsistent with the goals and objectives of the Northeast Multispecies FMP.

*Response:* We disagree that sector monitoring requirements cannot be revised through a framework action. Sector monitoring requirements, including coverage levels and the performance standard, are listed under sector administration provisions in Amendment 16, which is listed as a frameworkable measure in section 4.8.2 of the Amendment 16 environmental impact statement (EIS). The regulations at § 648.90(a)(2)(iii) list ASM requirements among the measures that may be modified through the biennial review process, as well as AMs, changes to other administrative measures, and any other measures currently included in the Northeast Multispecies FMP.

These changes are elaborations on Amendment 16's goals and objectives for determining appropriate monitoring levels. They do not fundamentally alter the goal of verifying area fished, catch, and discards, by gear type or the requirement to achieve the goals of economic efficiency or minimizing to the extent practicable adverse impacts on fishing communities. Similar changes in Framework 48 were found to be appropriately accomplished through a framework adjustment in *Oceana, Inc. v. Pritzker*, 26 F. 3d 33 (D.D.C. 2014).

We also disagree that these changes are inconsistent with the goals and objectives of the Northeast Multispecies FMP. As noted in the proposed rule and this final rule, Framework 55 does not change the 30-percent CV requirement or the monitoring program goals and objectives, and only adjusts the method used to set target coverage levels to meet this requirement. The Council deemed the regulations necessary to accomplish these adjustments as consistent with their intent in Framework 55. Thus, we have determined that these changes are lawful under the combination of allowable framework provisions of the Northeast Multispecies FMP and section 305(d) of the Magnuson-Stevens Act which authorizes NMFS to implement regulations necessary to ensure that Council measures are carried out in a manner consistent with the Act.

*Comment 37:* Oceana and EDF make a number of claims regarding the NEPA analysis for this action. They claim that the reduction in monitoring resulting from the ASM program changes in Framework 55 will have a significant impact on the environment, and thus should have been analyzed in an EIS instead of an EA. Regarding the EA's compliance with NEPA, the commenters raise the following concerns: The EA fails to consider a reasonable range of alternatives, including other monitoring options such as electronic monitoring; the EA fails to consider cumulative environmental impacts; the EA fails to adequately assess how changes in the realized CVs may impact assessment error, projections, and scientific and/or management uncertainty.

*Response:* We disagree with the commenters' assertion that Framework 55 violated NEPA because an EIS was not prepared. Consistent with NEPA, Council for Environmental Quality (CEQ) regulations, and NOAA administrative policy, NMFS and the Council collaborated to prepare an EA to evaluate the significance of the environmental impacts expected as a result of the measures in Framework 55. According to the CEQ regulations, and all available guidance on the subject, an

EIS need only be prepared when an EA or other related analysis identifies significant effects on the environment or if the facts available to the action agency cannot support the conclusion required to make a finding of no significant impact (FONSI). The Framework 55 EA fully evaluated the expected direct, indirect, and cumulative impacts likely to result from the implementation of the action. The results of this assessment are provided in section 8.2 of the EA, which supports the FONSI, signed on April 13, 2016. The commenters claim that reducing monitoring levels materially reduces our ability to monitor groundfish catch limits, but provided no evidence, nor any claims, that the conclusion in the FONSI are not supported by the facts presented in the EA for this finding.

We also disagree that the EA fails to consider the cumulative environmental impacts of Framework 55. Section 7.6 of the EA explicitly provides a discussion of the expected cumulative impacts associated with this action. We have determined that this treatment of the cumulative impacts is consistent with CEQ regulations and current NOAA policy.

The overall sector monitoring program is not changed by the measures in Framework 55. Specifically, the requirement to set the target ASM coverage levels to achieve a 30-percent CV on discard estimates for groundfish stocks is not changed. We have determined that the modifications to the method used to determine the target ASM coverage level are reasonable and should result in target coverage levels that will meet the 30-percent CV requirement. While we have determined that a 2016 target ASM coverage level of 14 percent can be expected to meet the 30-percent CV target, we note again that this coverage level is not set in perpetuity. This means that, in future fishing years, higher or lower coverage levels could result from the method approved in this action, and we are still required to set target coverage levels at a rate that are expected to achieve the 30-percent CV standard. In addition, this action does not approve any other notable changes to the total sector monitoring program (e.g., other monitoring and reporting requirements). Given that the limited scope of the changes to the sector monitoring program approved in Framework 55, we have determined that the FONSI is well supported.

*Comment 38:* Several commenters make claims regarding the timing of this action. Oceana and EDF assert that a 15-day comment period was too short to allow the public a meaningful

opportunity to comment. Oceana suggested extending the comment period. EDF claims that Magnuson-Stevens Act requires NMFS to immediately (within 5 days of transmittal by the Council) initiate an evaluation of proposed regulations, and make determination within 15 days. They claim that the proposed rule should have been published in the **Federal Register** on March 14, 20 days after submission by the Council on February 19th, instead of on March 21. They also make the contradictory claim that, because NMFS published the proposed rule less than 1 month following Council submission, that there was too little time for NMFS to have conducted its own environmental analysis of the proposed changes to the Northeast Multispecies FMP.

Finally, EDF claims that the Agency may have pre-judged the outcome of the EA in order to ensure that Framework 55 measures would be published in time for May 1. They note that 1 month before Framework 55 was formally submitted, NMFS argued in a preliminary injunction hearing in the U.S. District Court for the District of New Hampshire that harm to the plaintiff was not significant because of the likelihood that NMFS would approve Framework 55 measures and reduce monitoring levels.

*Response:* We disagree that the 15-day comment period was not enough time to allow commenters to provide meaningful comments. The Council initiated Framework 55 at its June 2015, meeting and developed alternatives over several meetings including their September and December meetings, as well as the September 3, 2015, and the November 18, 2015, Groundfish Oversight Committee meetings. The alternatives were also discussed at numerous Groundfish PDT meetings from July–November 2015. Representatives from EDF and Oceana were present at the December Council meeting, when the Council took final action on the ASM alternatives in Framework 55. The analysis presented at the December meeting included biological and economic analyses of the alternatives. The alternatives described in the Framework 55 EA and presented in the proposed rule are unchanged from those adopted by the Council in December. Council presentations and documents throughout the development of Framework 55 included a clear outline of the expected timing of the Council and rulemaking process. The public was well aware that the intent was to implement these measures in time for the start of the 2016 groundfish fishing year on May 1, 2016. Therefore,

we conclude that the public, including Oceana and EDF, had more than adequate opportunity to consider and prepare comments on the ASM program adjustments in anticipation of the proposed rulemaking, in spite of the 15-day comment period.

We agree that there is a Magnuson-Stevens Act requirement to initiate an evaluation of proposed regulations for implementing or modifying FMPs or amendments, to determine whether they are consistent with the FMP and applicable law within 15 days, and to publish such regulations for a public comment period of 15 to 60 days. We published the proposed rule within the bounds of the comment period provided for in that provision and the final rule is expected to be published well in advance of the outside time limit specified in the same provision. We believe the publication timeline has provided a meaningful opportunity for full and fair public comment and participation.

Each year since 2013, we have published the target coverage level that we expect is sufficient to achieve the Northeast Multispecies FMP's monitoring goals. This target rate was determined using internal administrative standards we developed to ensure coverage was at a rate based on past experience where we could reasonably expect to achieve these goals. Prior to the Council's adoption of the measures in Framework 55 or approval of this final rule, we developed two of the adjustments to our administration of the ASM program that were also proposed as part of Framework 55. We would have been required to apply these administrative adjustments in the absence of Framework 55 measures as part of default changes had Framework 55 not been published in time for the beginning of the fishing year. Specifically, we planned to stop using our internal standard of monitoring 80 percent of discarded pounds at a 30-percent CV. We also planned to use multiple years of information to set the target ASM coverage level. Because these were changes to our internal mechanisms for administering the ASM program, they were outside of the Council process and did not require public comment. As we were considering these changes and expecting to implement them in time for the new fishing year, we worked with the Council to evaluate these changes in the context of a framework adjustment for the purpose of transparency, and to allow the public the maximum opportunity to participate in the development and evaluation of these

changes. The measures in Framework 55 were always subject to our approval or disapproval under the Magnuson-Stevens Act. Our intent to make a subset of administrative adjustments did not pre-determine what impacts may occur and the assessment of those potential impacts of all of the Framework 55 measures. It also did not foreclose the Council's consideration of other alternatives included in Framework 55, their impacts, and an assessment of how they all interacted. Last, we expressed our concern that these adjustments complied with the Magnuson-Stevens Act, its National Standards, and the groundfish FMP's goals and objectives. For example, in our proposed rule we specifically requested comments on whether the Council's proposed revisions to the groundfish ASM program met the requirements of the Magnuson-Stevens Act, its National Standards, and the groundfish FMP to engage the public in our evaluation of the proposed measures.

*Comment 39:* One individual commented that industry should pay for monitoring.

*Response:* As described in the proposed rule, Amendment 16 requires industry to pay for ASM. For the 2010 and 2011 fishing year, there was no requirement for industry-funded ASM. NMFS assumed industry's monitoring costs for industry after the industry-funded ASM requirement became effective in the 2012 fishing year, and until March 2016. Sectors have been paying for ASM costs since March 2016, and 2016 will be the first full fishing year where industry will be responsible for its costs for ASM.

*Comment 40:* Two commercial fishermen commented in opposition to having small boat commercial fishermen pay for ASM, especially those fishing for dogfish and skate.

*Response:* We share the commenter's concern about the financial burden of industry-funded ASM. Nonetheless, ASM coverage is critical to monitoring sector ACE and meeting the goals and objectives described in Amendment 16 and Framework 48. The ASM requirement applies to all vessels participating in sectors, regardless of vessel size.

We agree that our limited monitoring resources should be focused on sector trips with groundfish catch. This action approves a measure to exempt extra-large mesh gillnet trips in SNE and Inshore GB Broad Stock Areas from ASM coverage requirement, as well as a sector exemption to allow these same vessel to target dogfish in existing dogfish exemption areas. These trips

have low groundfish catch, and primarily target non-groundfish species such as dogfish and skate. As noted above, these trips will still be subject to NMFS-funded NEFOP coverage requirements, and all groundfish catch on these trips will still be deducted from a sector's ACE. We will evaluate these trips on an annual basis to ensure that groundfish catch is still minimal enough to continue exempting these trips for ASM coverage requirements.

*Comment 41:* One recreational fisherman commented in opposition to requiring industry-funded monitors on recreational vessels when commercial vessels are the problem.

*Response:* The industry-funded ASM program only applies to limited access commercial groundfish vessels enrolled in the sector program. There are currently no ASM coverage requirements in the Northeast Multispecies FMP for recreational groundfish trips.

#### *Other Framework 55 Measures*

*Comment 42:* AFM, SHS, and EDF supported the formation of Sustainable Harvest Sector II.

*Response:* We are approving the formation of Sustainable Harvest Sector II in this action.

*Comment 43:* SHS and EDF supported the proposed modification to the sector approval process. SHS commented that streamlining the approval process will allow industry to more quickly adapt to regulatory changes.

*Response:* We agree, and are approving this alternative as proposed. This measure maintains the Council's authority to approve of new sectors and the opportunity for public participation in the sector approval process, while reducing the total time necessary for sector approval.

*Comment 44:* The Council commented that, though clear in the proposed regulatory text, the text in the preamble to the proposed rule does not make clear that sector applications need to be simultaneously submitted to the Council and NMFS.

*Response:* We agree with the Council that the process is correctly described in the regulatory text, and have adjusted to description of this provision in section "7. Other Framework 55 Measures" to clarify the Council's intent.

*Comment 45:* AFM and EDF commented in support of the modification to the definition of haddock separator trawl gear.

*Response:* We agree. This measure will improve enforceability of this selective trawl gear. We intend to delay the effectiveness of this measure by 6



months to allow industry to replace separator panels.

*Comment 46:* EDF commented in support of removing the permanent prohibition on recreational possession of GOM cod.

*Response:* We agree. This measure returns the authority to the Regional Administrator to set the recreational bag limit for GOM cod. This will provide greater flexibility for setting annual management measures that will help the recreational fishery achieve, but not exceed, its quota for GOM cod. We have approved recreational possession limits for GOM cod for 2016 in a separate, concurrent rulemaking.

*Comment 47:* AFM, SHS, NSC, the SGA, and EDF commented in support of allowing sectors to “convert” their eastern GB cod allocation into western GB cod allocation. SHS noted the current mechanism that allows sectors to convert eastern GB haddock allocation into western GB haddock allocation, and that it is an effective tool.

*Response:* We agree with the commenters, and are implementing this measure as proposed. We anticipate that this measure will maximize flexibility for fishing vessels operating on GB. Eastern GB cod is a management unit of the total GB stock that is used to manage the shared U.S./Canada portion of this stock. As a result, the analysis supporting this measure concluded that there would be negligible biological impact to the stock. In our approval, we recommend that the Council occasionally review the measure in the future to ensure that it is still necessary and appropriate, particularly if there is a change in the stock assessment or the perception of stock status in the future.

#### *Sector Measures for the 2016 Fishing Year*

*Comment 48:* The GB Fixed Gear Sector supported the proposed sector exemption to target dogfish, noting that the exemption supports the current behavior of the fleet, and will maximize viability and profitability.

*Response:* We are granting this exemption as proposed. This exemption will allow greater opportunities for sector vessels to target non-groundfish species, which may help mitigate some of the negative economic impacts of recent catch limit reductions. As noted earlier in this final rule, allowing sectors to participate in these exempted fisheries for dogfish while simultaneously being excluded from ASM coverage on extra-large mesh sector trips is intended to maximize the viability and profitability of their businesses. We will continue to closely

monitor catch from any trips fishing under this exemption to ensure that they continue to have low groundfish catch.

*Comment 49:* NSC commented in support of the Northeast Fishery Sector XII sector operations plan.

*Response:* We agree, and are approving the NEFS XII 2016 operations plan in this action.

*Comment 50:* In light of the significant quota reductions for several key groundfish stocks, AFM supports the maximum 10-percent carryover allowed by law. They noted that significant precaution is built into the ABC and ACL recommendations, and that there is no biological justification for less than the 10-percent carryover.

*Response:* Framework 55 did not consider adjustments to the sector carryover provision, and these types of adjustments are beyond the scope and authority relating to this action. Framework 53, which was approved and implemented at the start of the 2015 fishing year, modified the sector carryover provision that was approved and implemented in Amendment 16. This change was in response to a 2013 court ruling in *Conservation Law Foundation v. Pritzker, et al.* (Case No. 1:13-CV-0821-JEB). Details of this court ruling, and the corresponding changes to the sector carryover provision, are provided in the final rules for Framework 50 (78 FR 2617; May 3, 2013) and Framework 53 (80 FR 25110; May 1, 2015).

Sectors may still carry over up to 10 percent of their unused allocation as long as this amount, plus the total ACL for the upcoming fishing year, does not exceed the ABC. If the full 10-percent carryover possible would exceed the ABC, the Northeast Multispecies FMP requires that we reduce the available carryover for each sector. This provision limits the amount of carry-over to ensure that the ABC is not exceeded for a stock. For 2016, total potential catch would exceed the 2016 ABC for all groundfish stocks, except for GOM and GB haddock, if sectors carried over the maximum 10-percent of unused allocation allowed. As a result, we expect we will need to adjust the maximum amount of unused allocation that a sector can carry forward from 2015 to 2016 (down from 10 percent). The final adjustment will depend on each sector's final 2015 catch. As noted in the preamble, we will make adjustments as soon after May 1 as possible.

#### *2016 Fishing Year Annual Measures Under Regional Administrator Authority*

*Comment 51:* The Council requested clarification regarding the proposed GOM cod trip limit for the common pool and questioned why the trip limit is proposed to decline by 50 percent when the ACL is proposed to increase in 2016.

*Response:* We attempt to set trip limits that will allow fishing access for an entire trimester while preventing any overages from occurring. In 2015, the initial GOM cod trip limit was 50 lb (22.5 kg) per DAS, up to 200 lb (91 kg) per trip, for Category A DAS vessels. The initial trip limit for Handgear A and B permits was 50 lb (22.5 kg) and 25 lb (11.3 kg) per trip, respectively. Even at these low limits, by late May, about half of the Trimester 1 quota had been harvested. Therefore, in early June, we prohibited retention for all common pool vessels to reduce the likelihood of an overage and an area closure. However, by mid-June, the Trimester 1 quota was exceeded due to catch that occurred prior to the trip limit reduction. We were required to close portions of the GOM Cod Trimester TAC Area through the end of August as a result of the overage. The 2016 common pool sub-ACL for GOM cod is only expected to increase by approximately 2.5 mt from 2015, which translates to a marginal increase to the TAC for each trimester. Thus, for 2016, we are setting the initial trip limit more conservatively compared to the initial 2015 trip limit to prevent area closures and allow continued access to healthier stocks, such as GOM haddock and pollock. We will monitor common pool catch in-season, and if necessary or warranted, will make adjustments to the common pool trip limits implemented in this rule.

*Comment 52:* One commercial fisherman commented that the witch flounder trip limit will lead to increase in discards for the stock, and that the low catch limit is not consistent with landings seen on the waters. The commenter did not provide suggestions for an alternative trip limit.

*Response:* We disagree that the witch flounder trip limit is too low. The overall 2016 witch flounder catch limit is a 41-percent reduction compared to 2015. As a result, the 2015 trip limit of 1,000 lb (454 kg) per trip is likely too high to prevent overages of the common pool quota. The 250-lb (113-kg) trip limit implemented in this rule is intended to provide continued access to other healthy groundfish stocks by preventing premature closure of the trimester TAC for witch flounder. We



will monitor common pool catch in-season, and if necessary or warranted, will make adjustments to the common pool trip limits implemented in this rule.

*Comment 53:* One commercial fisherman commented that the CC/GOM yellowtail flounder trip limits are too low, but did not suggest an alternative trip limit. The commenter also noted that the daily trip limit listed incorrectly in proposed rule as 75 lb/day (34 kg/day), when it should have been 750 lb/day (340 kg/day).

*Response:* The commenter correctly identified our error in the CC/GOM yellowtail flounder trip limit in the proposed rule. The trip limit is corrected in this final rule.

*Comment 54:* Two commercial fishermen opposed the 100-lb (45-kg) trip limit for GOM haddock, particularly in light of the recreational bag limit of 15 fish per day. One commenter suggested that the common pool trip limit should be 200 lb (91 kg) per trip.

*Response:* The recreational fishery receives an allocation for GOM haddock, and annual recreational management measures are set to ensure the fishery achieves, but does not exceed, its allocation. A description of the 2016 recreational management measures, their rationale, and supporting analyses, is provided in the final rule implementing those measures, and is not repeated here.

After re-evaluating the common pool allocation, and in response to public comment, we are also setting the initial GOM haddock trip limit at 200 lb (91 kg) per DAS, up to 600 lb (272 kg) per trip. This increase is warranted given the increase to the 2016 GOM haddock common pool sub-ACL compared to 2015, as described further in section “9. 2016 Fishing Year Annual Measures Under Regional Administrator Authority.” We will monitor common pool catch in-season, and if necessary or warranted, will make adjustments to the common pool trip limits implemented in this rule.

*Comment 55:* Two commercial fishermen opposed the common pool trimester TAC system. One noted that the distribution of the quota among trimesters should be adjusted.

*Response:* Framework 55 did not consider adjustments to the trimester TAC system and these types of adjustments are beyond the scope and authority relating to this action. The trimester allocation of the common pool sub-ACL was developed as part of Amendment 16, and was based on landings through fishing year 2009. These distributions have been unchanged since the implementation of

Amendment 16. Any changes to the existing common pool measures would have to be developed through the Council process in a future management action. However, the Council could reconsider common pool management measures, including the trimester TAC distribution, at any time provided these measures still meet necessary conservation requirements.

#### Changes From the Proposed Rule

This final rule contains a number of minor adjustments from the proposed rule. We clarify a discrepancy in the status determination criteria for GB cod and Atlantic halibut. This rule corrects errors in the CC/GOM yellowtail flounder common pool trip limit and the 2016 sector carry-over table, adds inadvertently omitted default specifications for GB yellowtail flounder, and correct the GB cod groundfish catch limits for 2017 and 2018. We are also implementing a higher initial 2016 GOM haddock common pool trip limit than announced in the proposed rule.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the management measures implemented in this final rule are necessary for the conservation and management of the Northeast groundfish fishery and consistent with the Magnuson-Stevens Act, and other applicable law.

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

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

The Assistant Administrator for Fisheries finds good cause, under 5 U.S.C. 553(d)(3), to waive the 30-day delayed effectiveness of this action. This action sets 2016 catch limits for all groundfish stocks, and adopts several other measures to improve the management of the groundfish fishery. This final rule must be in effect at the beginning of the 2016 fishing year to fully capture the conservation and economic benefits of Framework 55 and sector administrative measures.

This rulemaking incorporates information from updated stock assessments for all 20 groundfish stocks. The development of Framework 55 was timed to incorporate the results of the 2015 groundfish stock assessments, which were finalized in October 2015. As a result, this rulemaking could not be

completed further before this date. Therefore, in order to have this action effective at the beginning of the 2016 fishing year, which begins on May 1, 2016, it is necessary to waive the 30-day delayed effectiveness of this rule.

If this action is delayed, the coverage level for the industry-funded ASM program would be 17 percent beginning on May 1, 2016, based on default measures for 2016 published in a separate rulemaking. When combined with the default groundfish specifications (set at 35 percent of the 2015 allocations), a delay in the implementation of these measures would result in direct economic loss for the groundfish fleet due to the high costs of ASM and the low default groundfish specifications, which may restrict fishing effort or temporarily alter business plans. In addition, this action approves two new sectors for operation on May 1, 2016. These sectors would be unable to operate and their vessels would be unable to fish until this action is finalized, which would result in direct economic loss for these vessels.

The groundfish fishery already faced substantial catch limit reductions for many key groundfish stocks over the past 5 years, and this rule implements additional catch limit reductions. However, the negative economic impacts of implementing the default catch limits on May 1 would exceed any negative economic impacts anticipated from this action. Any further disruption to the fishery that would result from a delay in this final rule could worsen the severe economic impacts to the groundfish fishery. While this action includes several catch limit decreases for several stocks in poor condition, it also includes catch limits increases for a number of healthy groundfish stocks. These increases in catch limits for healthy groundfish stocks may help mitigate the economic impacts of the reductions in catch limits for other key groundfish stocks.

The allocation changes for GOM haddock and GOM cod in this action would allow for increases in the recreational possession limits for both stocks through a separate, concurrent rulemaking. A delay in this action would delay setting recreational measures for the 2016 fishing year and the economic benefits that these measures would provide. Additionally, recreational fishermen book fishing trips months in advance for the upcoming fishing year. Thus, delays in finalizing recreational measures result in additional negative impacts on the recreational fishing industry due to uncertainty and the inability to book trips.

Overall, a delay in implementation of this action would greatly diminish any benefits of these specifications and other approved measures. For these reasons, a 30-day delay in the effectiveness of this rule is impracticable and contrary to the public interest.

### Final Regulatory Flexibility Analysis

Section 604 of the RFA, 5 U.S.C. 604, requires Federal agencies to prepare a Final Regulatory Flexibility Analysis (FRFA) for each final rule. The FRFA describes the economic impact of this action on small entities. The FRFA includes a summary of significant issues raised by public comments, the analyses contained in Framework 55 and its accompanying Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (IRFA), the IRFA summary in the proposed rule, as well as the summary provided below. A statement of the necessity for and for the objectives of this action are contained in Framework 55 and in the preamble to this final rule, and is not repeated here.

#### *A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments*

Our responses to all of the comments received on the proposed rule, including those that raised significant issues with the proposed action, or commented on the economic analyses summarized in the IRFA, can be found in the Comments and Responses section of this rule. As outlined in that section, significant issues were raised by the public with respect to the GB cod catch limits for 2016–2018 and the combined suite of groundfish ASM program adjustment. Comment 5 discussed that the GB cod catch limit, as well as catch limits for other key groundfish stocks, are expected to constrain the commercial groundfish fishery. Comment 26 discusses compares economic impacts of the No Action ASM alternative to the combined suite of ASM program adjustments, and the economic analysis in the IRFA. Comments 27 and 28 discuss alternatives to the proposed changes to the ASM program that were not considered in this action, namely electronic monitoring and an alternative approach for allocating ASM coverage. Detailed responses are provided to each of these specific comments and are not repeated here. There were no other comments directly related to the IRFA;

the Chief Counsel for the Office of Advocacy of the Small Business Administration (SBA) did not file any comments. No changes to the proposed rule measures were necessary as a result of these public comments.

#### *Description and Estimate of the Number of Small Entities to Which the Rule Would Apply*

The SBA defines a small business as one that is:

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

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

Ownership entities are defined as those entities with common ownership personnel as listed on the permit application. Only permits with identical ownership personnel are categorized as an ownership entity. For example, if five permits have the same seven persons listed as co-owners on their permit application, those seven persons would form one ownership entity that holds those five permits. If two of those seven owners also co-own additional

vessels, these two persons would be considered a separate ownership entity.

On June 1 of each year, NMFS identifies ownership entities based on a list of all permits for the most recent complete calendar year. The current ownership dataset used for this analysis was created on June 1, 2015, based on calendar year 2014 and contains average gross sales associated with those permits for calendar years 2012 through 2014.

In addition to classifying a business (ownership entity) as small or large, a business can also be classified by its primary source of revenue. A business is defined as being primarily engaged in fishing for finfish if it obtains greater than 50 percent of its gross sales from sales of finfish. Similarly, a business is defined as being primarily engaged in fishing for shellfish if it obtains greater than 50 percent of its gross sales from sales of shellfish.

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

#### *Regulated Commercial Fish Harvesting Entities*

Table 20 describes the total number of commercial business entities potentially regulated by this action. As of June 1, 2015, there were 1,359 commercial business entities potentially regulated by this action. These entities participate in, or are permitted for, the groundfish, small-mesh multispecies, squid, herring midwater trawl, and scallop fisheries. For the groundfish fishery, this action directly regulates potentially affected entities through catch limits and other management measures designed to achieve the goals and objectives of the Northeast Multispecies FMP. For the non-groundfish fisheries, this action includes allocations for groundfish stocks caught as bycatch in these fisheries. For each of these fisheries, there are accountability measures that are triggered if their respective allocations are exceeded. As a result, the likelihood of triggering an accountability measure is a function of changes to the ACLs each year.

TABLE 20—COMMERCIAL FISH HARVESTING ENTITIES REGULATED BY THIS ACTION

| Type                     | Total number | Classified as small businesses |
|--------------------------|--------------|--------------------------------|
| Primarily finfish .....  | 385          | 385                            |
| Primarily shellfish .... | 480          | 462                            |

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

TABLE 20—COMMERCIAL FISH HARVESTING ENTITIES REGULATED BY THIS ACTION—Continued

| Type                     | Total number | Classified as small businesses |
|--------------------------|--------------|--------------------------------|
| Primarily for hire ..... | 297          | 297                            |
| No Revenue .....         | 197          | 197                            |
| Total .....              | 1,359        | 1,341                          |

**Limited Access Groundfish Fishery**

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

As of June 1, 2015 (just after the start of the 2015 fishing year), there were 1,068 individual limited access multispecies permits. Of these, 627 were enrolled in the sector program, and 441 were in the common pool. For fishing year 2014, which is the most recent complete fishing year, 717 of these limited access permits had landings of any species, and 273 of these permits had landings of groundfish species.

Of the 1,068 individual limited access multispecies permits potentially impacted by this action, there are 661 distinct ownership entities. Of these, 649 are categorized as small entities, and 12 are categorized as large entities. However, these totals may mask some diversity among the entities. Many, if not most, of these ownership entities maintain diversified harvest portfolios, obtaining gross sales from many fisheries and not dependent on any one. However, not all are equally diversified. This action is most likely to affect those entities that depend most heavily on sales from harvesting groundfish species. There are 61 entities that are groundfish-dependent (obtain more than 50 percent of gross sales from groundfish species), all of which are

small, and all but one of which are finfish commercial harvesting businesses.

**Limited Access Scallop Fisheries**

The limited access scallop fisheries include Limited Access (LA) scallop permits and Limited Access General Category (LAGC) scallop permits. LA scallop businesses are subject to a mixture of DAS restrictions and dedicated area trip restrictions. LAGC scallop businesses are able to acquire and trade LAGC scallop quota, and there is an annual cap on quota/landings. The scallop fishery receives an allocation for GB and SNE/MA yellowtail flounder and southern windowpane flounder. If these allocations are exceeded, accountability measures are implemented in a subsequent fishing year. These accountability measures close certain areas of high groundfish bycatch to the scallop fishery, and the length of the closure depends on the magnitude of the overage.

Of the total commercial business entities potentially affected by this action (1,359), there are 169 scallop fishing entities. The majority of these entities are defined as shellfish businesses (166). However, three of these entities are defined as finfish businesses, all of which are small. Of the 169 total scallop fishing entities, 154 entities are classified as small entities.

**Midwater Trawl Fishery**

There are five categories of permits for the herring fishery. Three of these permit categories are limited access, and vary based on the allowable herring possession limits and areas fished. The remaining two permit categories are open access. Although there is a large number of open access permits issued each year, these categories are subject to fairly low possession limits for herring, account for a very small amount of the herring landings, and derive relatively little revenue from the fishery. Only the midwater trawl herring fishery receives an allocation of GOM and GB haddock. Once the entire allocation for either haddock stock has been caught, midwater trawl vessels may not fish for herring or haddock in the respective area for the remainder of the fishing year. Additionally, if the midwater trawl fishery exceeds its allocation, the overage is deducted from its allocation in the following fishing year.

Of the total commercial business entities potentially regulated by this action (1,359), there are 63 herring fishing entities. Of these, 39 entities are defined as finfish businesses, all of which are small. There are 24 entities that are defined as shellfish businesses,

and 18 of these are considered small. For the purposes of this analysis, squid is classified as shellfish. Thus, because there is some overlap with the herring and squid fisheries, it is likely that these shellfish entities derive most of their revenues from the squid fishery.

**Small-Mesh Fisheries**

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

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

Of the total commercial harvesting entities potentially affected by this action, there are 1,007 small-mesh entities. However, this is not necessarily informative because not all of these entities are active in the whiting fishery. Based on the most recent information, 223 of these entities are considered active, with at least 1 lb (0.45 kg) of whiting landed. Of these entities, 167 are defined as finfish businesses, all of which are small. There are 56 entities that are defined as shellfish businesses, and 54 of these are considered small. Because there is overlap with the whiting and squid fisheries, it is likely that these shellfish entities derive most of their revenues from the squid fishery.

**Regulated Recreational Party/Charter Fishing Entities**

The charter/party permit is an open access groundfish permit that can be requested at any time, with the limitation that a vessel cannot have a

limited access groundfish permit and an open access party/charter permit concurrently. There are no qualification criteria for this permit. Charter/party permits are subject to recreational management measures, including minimum fish sizes, possession restrictions, and seasonal closures.

During calendar year 2015, 425 party/charter permits were issued. Of these, 271 party/charter permit holders reported catching and retaining any groundfish species on at least one for-hire trip. A 2013 report indicated that, in the northeast U.S., the mean gross sales was approximately \$27,650 for a charter business and \$13,500 for a party boat. Based on the available information, no business approached the \$7.5 million large business threshold. Therefore, the 425 potentially regulated party/charter entities are all considered small businesses.

#### *Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements*

This action contains a change to an information collection requirement, which has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0648-0605: Northeast Multispecies Amendment 16 Data Collection. This action adjusts the ACE transfer request requirement implemented through Amendment 16. This rule adds a new entry field to the ACE transfer request form to allow a sector to indicate how many pounds of eastern GB cod ACE it intends to re-allocate to the Western U.S./Canada Area. This change is necessary to allow a sector to apply for a re-allocation of eastern GB ACE in order to increase fishing opportunities in the Western U.S./Canada Area. Currently, all sectors use the ACE transfer request form to initiate ACE transfers with other sectors, or to re-allocate eastern GB haddock ACE to the Western U.S./Canada Area, via an online or paper form to the Regional Administrator. The change only adds a single field to this form, and does not affect the number of entities required to comply with this requirement. Therefore, the change is not expected to increase the time or cost burden associated with the ACE transfer request requirement. Public reporting burden for this requirement includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply

with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

#### *Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes*

The economic impact of each measure is discussed in more detail in sections 7.4 and 8.11 of the Framework 55 EA and are not repeated here. Although small entities are defined based on gross sales of ownership groups, not physical characteristics of the vessel, it is reasonable to assume that larger vessels are more likely to be owned by large entities. The economic impacts of this action are anticipated to result in aggregate gross revenue losses of approximately \$8 million for the 2016 fishing year, compared to predicted revenues for the 2015 fishing year. However, the impacts of the approved catch limits would not be uniformly distributed across vessels size classes and ports. Some vessel size classes and ports are predicted to have 50- to 80-percent declines in revenues from groundfish.

Because predicted losses are expected to primarily affect small businesses, this action has the potential to place small entities at a competitive disadvantage relative to large entities. This is mainly because large entities may have more flexibility to adjust to, and accommodate, the measures. However, as discussed in more detail below, the additional declines in gross revenues expected as a result of this action will pose serious difficulties for all groundfish vessels and their crew.

#### *Status Determination Criteria*

This action updates the numerical estimates of the status determination criteria for all groundfish stocks in order to incorporate the results of the 2015 stock assessments. For many stocks, these updates result in lower values of MSY. For some of these, the lower values of MSY result in lower ACLs in the short-term, which is expected to have negative economic impacts (*i.e.*, lower net revenues). However, the updates to the status determination criteria are expected to have positive stock benefits by helping to prevent overfishing. Thus, in the long-term, the changes to status determination criteria are expected to result in higher and more sustainable landings when compared to the No Action option. All of the revisions are based on the 2015 stock assessments, and are therefore

based on the best scientific information available.

Status determination criteria are formulaic based on the results of a stock assessment. As a result, the only other alternative considered for this action was the No Action option, which would not update the status determination criteria for any groundfish stocks based on the 2015 stock assessments. This option would not incorporate the best scientific information available, and would not be consistent with Magnuson-Stevens Act requirements, and, as a result, was not selected. This option would not have any immediate economic impacts. However if this option resulted in overfishing in the long-term, then it would have severe negative economic impacts for the fisheries affected by this action.

#### *Groundfish Annual Catch Limits*

This action sets catch limits for all 20 groundfish stocks. For 19 of the stocks, there is only a single catch limit alternative to the No Action alternative, described in Table 5 in the preamble. For witch flounder, there are three non-selected alternatives to the adopted ABC of 460 mt, namely 399 mt, 500 mt, and the No Action alternative. In each of these witch flounder alternatives, except for the No Action alternative, all other groundfish stock allocations would remain the same as those described in Table 5. All of the non-selected action alternatives assume a 14-percent target ASM coverage level for 2016. The No Action alternative assumes a 41-percent target ASM coverage level for 2016.

For the commercial groundfish fishery, the approved catch limits (460 mt witch flounder ABC) are expected to result in a 10-percent decrease in gross revenues on groundfish trips, or \$8 million, compared to predicted gross revenues for the 2015 fishing year. The impacts of the approved catch limits would not be uniformly distributed across vessels size classes and ports. Vessels in the 30–50 ft (9–15 m) category are expected to see gross revenue increases of 2 percent. Vessels in the 50–75 ft (15–23 m) size class are expected to see revenue increases of 19 percent. The largest vessels (75 ft (23 m) and greater) are predicted to incur the largest decreases in gross revenues revenue decreases of 30 percent relative to 2015, due primarily to reductions in several GB and SNE/MA stocks (*e.g.*, GB cod, GB winter flounder, SNE/MA yellowtail flounder, SNE/MA winter flounder).

Southern New England ports are expected to be negatively impacted, with New Jersey, New York, and Rhode Island predicted to incur revenue losses

of 100 percent, 80 percent, and 62 percent, respectively, relative to 2015. These large revenue losses are also due to reductions in GB and SNE/MA stocks. Maine and Massachusetts are also predicted to incur revenue losses of 16 percent and 6 percent, respectively, as a result of the approved catch limits, while New Hampshire is expected to have small increases in gross revenues of up to 8 percent. For major home ports, New Bedford is predicted to see a 47-percent decline in groundfish revenues relative to 2015, and Point Judith expected to see a 58-percent decline. Boston and Gloucester, meanwhile, are predicted to have groundfish revenue increases of 31 and 29 percent, respectively, compared to 2015.

Two of the three non-selected alternatives would have set all groundfish allocations at the levels described in Table 5, with the exception of the witch flounder allocation. In the alternative that considered a witch flounder ABC of 399 mt, gross revenues were predicted to be the same as the approved catch limit (460-mt witch flounder ABC), namely a 10-percent decrease in gross revenues on groundfish trips, or \$8 million, compared to predicted gross revenues for the 2015 fishing year. The 399-mt alternative was also expected to provide the same changes in gross revenue by vessels size class. In the alternative that considered a witch flounder ABC of 500 mt, gross revenues were predicted to be slightly lower than the approved catch limit, namely an 11-percent decrease in gross revenues on groundfish trips, or \$9 million, compared to predicted gross revenues for fishing year 2015. Vessels in the 30–50 ft (9–15 m) category were expected to see gross revenue increases of 4 percent. Vessels in the 50–75 ft (15–23 m) size class were expected to see revenue increases of 15 percent. The largest vessels (75 ft (23 m) and greater) were predicted to incur the largest decreases in gross revenues revenue decreases of 28 percent relative to 2015. State and port-level impacts are also similar across the action alternatives.

Under the No Action option, groundfish vessels would be required to operate under default specifications of catch limits at 35 percent of the levels used last fishing year and would have only have 3 months (May, June, and July) to operate in the 2016 fishing year before the default specifications expire. Once the default specifications expire, there would be no ACL for a number of the groundfish stocks, and the fishery would be closed for the remainder of the fishing year. This would result in greater negative economic impacts for

vessels compared to the proposed action due to lost revenues as a result of being unable to fish. The adopted action is predicted to result in approximately \$69 million in gross revenues from groundfish trips. Roughly 92 percent of this revenue would be lost if no action was taken to specify catch limits. Further, if no action was taken, the Magnuson-Stevens Act requirements to achieve optimum yield and consider the needs of fishing communities would be violated.

Each of the 2016 ACL alternatives show a decrease in gross revenue when compared to the 2015 fishing year. When compared against each other, the economic analysis of the various witch flounder ABC alternatives did not show any gain in gross revenue at the fishery level, or any wide difference in vessel and port-level gross revenue, as the witch flounder ABC increased. The economic analysis consistently showed other stocks (GB cod, GOM cod, and SNE/MA yellowtail flounder) would be more constraining than witch flounder, which may partially explain the lack of predicted revenue increases with higher witch flounder ABCs. In addition, there are other assumptions in the economic analysis that may mask sector and vessel level impacts that could result from alternatives with lower witch flounder ABCs. Ultimately, the adopted alternative (460-mt witch flounder ABC) is expected to mitigate potential economic impacts to fishing communities compared to both the No Action alternative and the 399-mt witch flounder ABC alternative, while reducing the biological concerns of an increased risk of overfishing compared to the 500-mt witch flounder ABC alternative.

The catch limits approved in this action are based on the latest stock assessment information, which is considered the best scientific information available, and the applicable requirements in the Northeast Multispecies FMP and the Magnuson-Stevens Act. With the exception of witch flounder, the only other possible alternatives to the catch limits in this action that would mitigate negative impacts would be higher catch limits. Alternative, higher catch limits, however, are not permissible under the law because they would not be consistent with the goals and objectives of the Northeast Multispecies FMP, or the Magnuson-Stevens Act, particularly the requirement to prevent overfishing. The Magnuson-Stevens Act and case law prevent implementation of measures that conflict with conservation requirements, even if it means negative impacts are not mitigated. The catch

limits in this action are the highest allowed given the best scientific information available, the SSC's recommendations, and requirements to end overfishing and rebuild fish stocks. The only other catch limits that would be legal would be lower than those in this action, which would not mitigate the economic impacts of the approved catch limits.

#### *Groundfish At-Sea Monitoring Program*

This action approves a set of four alternatives that, in combination, result in a 2016 target ASM coverage level of 14 percent. The four selected alternatives will: (1) Remove ASM coverage for extra-large mesh gillnet trips fishing in Broad Stock Areas 2 and/or 4; (2) remove the administrative standard that 80 percent of discards be estimated at a 30-percent CV; (3) use 3 years of discard information to predict ASM coverage levels; and (4) base the target coverage level on the predictions for stocks that would be at a higher risk for an error in the discard estimate. The No Action alternative would have resulted in a 2016 ASM coverage level of 41 percent.

The combination of ASM alternatives would result in a lower level of ASM coverage (14 percent) relative to the No Action alternative (41 percent) thereby resulting in a reduction in cost to sectors. Selecting the alternatives in combination has the maximum economic impact mitigation compared to No Action. Assuming NEFOP coverage of 4 percent for the 2016 fishing year, industry would be responsible for paying for ASM coverage on an estimated 10 percent of trips under the combined ASM alternatives, and an estimated 37 percent of trips under the No Action alternative. Assuming 20,000 days absent, and a cost of \$710 per ASM seaday, the cost of ASM to sectors would be \$1.4 million (20,000\*10\*\$710). This would represent cost savings of \$3.9 million relative to the No Action alternative (\$5.3 million). The \$710 per ASM seaday is based on NMFS cost estimates for the ASM program. If sectors are able to negotiate lower per seaday rates for ASM coverage with service providers, these figures may be overestimates.

Each of the four selected alternatives, if approved in isolation, would have also resulted in a lower ASM coverage level relative to the No Action alternative. Using the effort and ASM cost assumptions noted above, removing ASM coverage for extra-large mesh gillnet trips fishing in Broad Stock Areas 2 and/or 4 would result in a cost savings of \$64,610 relative to the No Action alternative. Remove the

administrative standard that 80 percent of discards be estimated at a 30-percent CV would result in 2016 ASM costs of \$4.7 million, an estimated \$0.6 million decrease relative to the No Action alternative. Using 3 years of discard information to predict ASM coverage levels would result in 2016 ASM costs of \$1.8 million, a savings of \$3.5 million relative to No Action. Finally, basing the target coverage level on the predictions for stocks that would be at a higher risk for an error in the discard estimate would in ASM costs of \$3.1 million, an estimated \$2.2 million decrease in ASM costs relative to the No Action alternative.

#### *Formation of Sustainable Harvest Sector II*

This action approves the formation of a new sector, Sustainable Harvest Sector II, for operation for the 2016 fishing year. The No Action alternative was the only alternative to the approved action, and would not approve the formation of Sustainable Harvest Sector II. Allowing the formation of the new sector increases flexibility for groundfish fishery participants within the sector management system, and is thus anticipated to have positive economic impacts.

#### *Modification of the Sector Approval Process*

This action modifies the sector approval process such that a Council framework adjustment or amendment is no longer needed to approve a new sector. The No Action alternative was the only alternative to the approved action, and would maintain the existing process for sector approval. Modifying the sector approval process decreases the administrative cost of approving a new sector, and allows more time for new sectors to prepare operations plans and analysis to support the formation of a new sector. The additional time to prepare operations plans may have minor economic benefits to fishery participants.

#### *Modification of the Definition of the Haddock Separator Trawl*

This action modifies the current definition of the haddock separator trawl to require that the separator panel contrasts in color to the portions of the net that it separates. An estimated 46 unique vessels had at least one trip that used a haddock separator trawl from 2013–2015. The costs for labor and installation of a new separator panel are estimated to range from \$560 to \$1,400 per panel. The No Action alternative would not modify the current definition of the haddock separator trawl. The

approved action is expected to expedite Coast Guard vessel inspections when compared to the No Action alternative, which could improve enforceability of this gear type and reduce delays in fishing operations while inspections occur. In order to minimize impact of this measure, we are delaying the effective date of this requirement by 6 months to allow affected fishermen time to replace their separator panels with contrasting netting.

#### *Removal of GOM Cod Recreational Possession Limit*

For the recreational fishery, the removal prohibition on GOM cod possession, coupled with measures in the recreational rule, are expected to result in short-term positive economic impacts. The measures implemented for 2016 in that rule are expected to result in an increase in the number of trips taken by anglers, and increased catch, while staying within the recreational quotas for 2016. Under the No Action alternative, vessels would be prohibited from harvesting GOM cod, which would have negative economic impacts compared to the selected alternative.

#### *Distribution of Eastern/Western GB Cod Sector Allocation*

The action allows sectors to convert their eastern GB cod allocation to western GB cod allocation and provide sectors additional flexibility to harvest more of their total GB cod allocation. Only the No Action alternative and the selected alternative were considered. Compared to the No Action alternative, this measure is expected to have positive economic impacts on groundfish-dependent small entities that participate in the sector program due to increased operational flexibility. This measure is also expected to prevent the Western U.S./Canada Area from being closed to a sector prematurely, before the sector harvests all of its GB cod allocation, which will ultimately prevent foregone yield in the fishery. Given the sizable decreases in the GB cod catch limit for 2016, the ability of sectors to convert their eastern GB cod allocation to western GB cod may be of critical importance for allowing members to maintain fishing operations on Georges Bank through 2016. In the absence of GB cod allocation, sectors members are not permitted to fish in the Inshore and Offshore Georges Bank broad stock areas.

#### **Small Entity Compliance Guide**

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is

required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide will be sent to all holders of Federal permits issued for the Northeast multispecies fisheries, as well as the scallop and herring fisheries that receive an allocation of some groundfish stocks. In addition, copies of this final rule and guides (*i.e.*, information bulletins) are available from NMFS at the following Web site: <http://www.greateratlantic.fisheries.noaa.gov/>.

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

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: April 25, 2016.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons stated in the preamble, NMFS amends 50 CFR part 648 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, revise paragraph (k)(16)(iii)(B) to read as follows:

\* \* \* \* \*

(k) \* \* \*

(16) \* \* \*

(iii) \* \* \*

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

\* \* \* \* \*

■ 3. In § 648.85, revise paragraph (a)(3)(iii)(A) to read as follows:

#### **§ 648.85 Special management programs.**

\* \* \* \* \*

(a) \* \* \*

(3) \* \* \*

(iii) \* \* \*

(A) *Haddock Separator Trawl.* A haddock separator trawl is defined as a groundfish trawl modified to a vertically-oriented trouser trawl configuration, with two extensions arranged one over the other, where a codend shall be attached only to the

upper extension, and the bottom extension shall be left open and have no codend attached. A horizontal large-mesh separating panel constructed with a minimum of 6.0-inch (15.2-cm) diamond mesh must be installed between the selvages joining the upper and lower panels, as described in paragraphs (a)(3)(iii)(A) and (B) of this section, extending forward from the front of the trouser junction to the aft edge of the first belly behind the fishing circle. The horizontal large-mesh separating panel must be constructed with mesh of a contrasting color to the upper and bottom extensions of the net that it separates.

(1) *Two-seam bottom trawl nets.* For two seam nets, the separator panel will be constructed such that the width of the forward edge of the panel is 80–85 percent of the width of the after edge of the first belly of the net where the panel is attached. For example, if the belly is 200 meshes wide (from selvedge to selvedge), the separator panel must be no wider than 160–170 meshes wide.

(2) *Four-seam bottom trawl nets.* For four seam nets, the separator panel will be constructed such that the width of the forward edge of the panel is 90–95 percent of the width of the after edge of the first belly of the net where the panel is attached. For example, if the belly is 200 meshes wide (from selvedge to selvedge), the separator panel must be no wider than 180–190 meshes wide. The separator panel will be attached to both of the side panels of the net along the midpoint of the side panels. For example, if the side panel is 100 meshes tall, the separator panel must be attached at the 50th mesh.

\* \* \* \* \*

■ 4. In § 648.87:

- a. Revise paragraphs (a)(1) and (2), (b)(1)(i)(B)(2), (b)(1)(v)(B) introductory text, (b)(1)(v)(B)(1)(i);
- b. Add paragraph (b)(1)(v)(B)(1)(ii);
- c. Revise paragraph (b)(4)(i)(G);
- d. Add paragraphs (c)(2)(i)(A) and (B) and (c)(4); and
- e. Revise paragraphs (d) and (e)(3)(iv).

The revisions read as follows:

**§ 648.87 Sector allocation.**

(a) *Procedure for approving/implementing a sector allocation proposal.* (1) Any person may submit a sector allocation proposal for a group of limited access NE multispecies vessels to NMFS. The sector allocation proposal must be submitted to the Council and NMFS in writing by the deadline for submitting an operations plan and preliminary sector contract that is specified in paragraph (b)(2) of this section. The proposal must include a cover letter requesting the formation of

the new sector, a complete sector operations plan and preliminary sector contract, prepared as described in paragraphs (b)(2) and (b)(3) of this section, and appropriate analysis that assesses the impact of the proposed sector, in compliance with the National Environmental Policy Act.

(2) Upon receipt of a proposal to form a new sector allocation, and following the deadline for each sector to submit an operations plan, as described in paragraph (b)(2) of this section, NMFS will notify the Council in writing of its intent to consider a new sector allocation for approval. The Council will review the proposal(s) and associated NEPA analyses at a Groundfish Committee and Council meeting, and provide its recommendation on the proposed sector allocation to NMFS in writing. NMFS will make final determinations regarding the approval of the new sectors based on review of the proposed operations plans, associated NEPA analyses, and the Council's recommendations, and in a manner consistent with the Administrative Procedure Act. NMFS will only approve a new sector that has received the Council's endorsement.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) \* \* \*

(B) \* \* \*

(2) *Re-allocation of haddock or cod ACE.* A sector may re-allocate all, or a portion, of its haddock or cod ACE specified to the Eastern U.S./Canada Area, pursuant to paragraph (b)(1)(i)(B)(1) of this section, to the Western U.S./Canada Area at any time during the fishing year, and up to 2 weeks into the following fishing year (*i.e.*, through May 14), unless otherwise instructed by NMFS, to cover any overages during the previous fishing year. Re-allocation of any ACE only becomes effective upon approval by NMFS, as specified in paragraphs (b)(1)(i)(B)(2)(i) through (iii) of this section. Re-allocation of haddock or cod ACE may only be made within a sector, and not between sectors. For example, if 100 mt of a sector's GB haddock ACE is specified to the Eastern U.S./Canada Area, the sector could re-allocate up to 100 mt of that ACE to the Western U.S./Canada Area.

(i) *Application to re-allocate ACE.* GB haddock or GB cod ACE specified to the Eastern U.S./Canada Area may be re-allocated to the Western U.S./Canada Area through written request to the Regional Administrator. This request must include the name of the sector, the

amount of ACE to be re-allocated, and the fishing year in which the ACE re-allocation applies, as instructed by the Regional Administrator.

(ii) *Approval of request to re-allocate ACE.* NMFS shall approve or disapprove a request to re-allocate GB haddock or GB cod ACE provided the sector, and its participating vessels, are in compliance with the reporting requirements specified in this part. The Regional Administrator shall inform the sector in writing, within 2 weeks of the receipt of the sector's request, whether the request to re-allocate ACE has been approved.

(iii) *Duration of ACE re-allocation.* GB haddock or GB cod ACE that has been re-allocated to the Western U.S./Canada Area pursuant to this paragraph (b)(1)(i)(B)(2) is only valid for the fishing year in which the re-allocation is approved, with the exception of any requests that are submitted up to 2 weeks into the subsequent fishing year to address any potential ACE overages from the previous fishing year, as provided in paragraph (b)(1)(iii) of this section, unless otherwise instructed by NMFS.

\* \* \* \* \*

(v) \* \* \*

(B) *Independent third-party monitoring program.* A sector must develop and implement an at-sea or electronic monitoring program that is satisfactory to, and approved by, NMFS for monitoring catch and discards and utilization of sector ACE, as specified in this paragraph (b)(1)(v)(B). The primary goal of the at-sea/electronic monitoring program is to verify area fished, as well as catch and discards by species and gear type, in the most cost-effective means practicable. All other goals and objectives of groundfish monitoring programs at § 648.11(l) are considered equally-weighted secondary goals. The details of any at-sea or electronic monitoring program must be specified in the sector's operations plan, pursuant to paragraph (b)(2)(xi) of this section, and must meet the operational standards specified in paragraph (b)(5) of this section. Electronic monitoring may be used in place of actual observers if the technology is deemed sufficient by NMFS for a specific trip type based on gear type and area fished, in a manner consistent with the Administrative Procedure Act. The level of coverage for trips by sector vessels is specified in paragraph (b)(1)(v)(B)(1) of this section. The at-sea/electronic monitoring program shall be reviewed and approved by the Regional Administrator as part of a sector's operations plans in a manner consistent with the Administrative Procedure Act. A service



provider providing at-sea or electronic monitoring services pursuant to this paragraph (b)(1)(v)(B) must meet the service provider standards specified in paragraph (b)(4) of this section, and be approved by NMFS in a manner consistent with the Administrative Procedure Act.

(1) \* \* \*

(i) *At-sea/electronic monitoring.*

Coverage levels must be sufficient to at least meet the coefficient of variation specified in the Standardized Bycatch Reporting Methodology at the overall stock level for each stock of regulated species and ocean pout, and to monitor sector operations, to the extent practicable, in order to reliably estimate overall catch by sector vessels. In making its determination, NMFS shall take into account the primary goal of the at-sea/electronic monitoring program to verify area fished, as well as catch and discards by species and gear type, in the most cost-effective means practicable, the equally-weighted secondary goals and objectives of groundfish monitoring programs detailed at § 648.11(l), the National Standards and requirements of the Magnuson-Stevens Act, and any other relevant factors. NMFS will determine the total target coverage level (*i.e.*, combined NEFOP coverage and at-sea/electronic monitoring coverage) for the upcoming fishing year using the criteria in this paragraph. Annual coverage levels will be based on the most recent 3-year average of the total required coverage level necessary to reach the required coefficient of variation for each stock. For example, if data from the 2012 through 2014 fishing years are the most recent three complete fishing years available for the fishing year 2016 projection, NMFS will use data from these three years to determine 2016 target coverage levels. For each stock, the coverage level needed to achieve the required coefficient of variation would be calculated first for each of the 3 years and then averaged (*e.g.*, (percent coverage necessary to meet the required coefficient of variation in year 1 + year 2 + year 3)/3). The coverage level that will apply is the maximum stock-specific rate after considering the following criteria. For a given fishing year, stocks that are not overfished, with overfishing not occurring according to the most recent available stock assessment, and that in the previous fishing year have less than 75 percent of the sector sub-ACL harvested and less than 10 percent of catch comprised of discards, will not be used to predict the annual target coverage level. A stock must meet all of these criteria to be eliminated as a

predictor for the annual target coverage level for a given year.

(ii) A sector vessel that declares its intent to exclusively fish using gillnets with a mesh size of 10-inch (25.4-cm) or greater in either the Inshore GB Stock Area, as defined at § 648.10(k)(3)(ii), and/or the SNE Broad Stock Area, as defined at § 648.10(k)(3)(iv), is not subject to the coverage level specified in this paragraph (b)(1)(v)(B)(1) of this section provided that the trip is limited to the Inshore GB and/or SNE Broad Stock Areas and that the vessel only uses gillnets with a mesh size of 10-inches (25.4-cm) or greater. When on such a trip, other gear may be on board provided that it is stowed and not available for immediate use as defined in § 648.2. A sector trip fishing with 10-inch (25.4-cm) mesh or larger gillnets will still be subject to the annual coverage level if the trip declares its intent to fish in any part of the trip in the GOM Stock area, as defined at § 648.10(k)(3)(i), or the Offshore GB Stock Area, as defined at § 648.10(k)(3)(iii).

\* \* \* \* \*

(4) \* \* \*

(i) \* \* \*

(G) Evidence of adequate insurance (copies of which shall be provided to the vessel owner, operator, or vessel manager, when requested) to cover injury, liability, and accidental death to cover at-sea monitors (including during training); vessel owner; and service provider. NMFS will determine the adequate level of insurance and notify potential service providers;

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(i) \* \* \*

(A) *Fippennies Ledge Area.* The Fippennies Ledge Area is bounded by the following coordinates, connected by straight lines in the order listed:

FIPPENNIES LEDGE AREA

| Point   | N. latitude | W. longitude |
|---------|-------------|--------------|
| 1 ..... | 42°50.0'    | 69°17.0'     |
| 2 ..... | 42°44.0'    | 69°14.0'     |
| 3 ..... | 42°44.0'    | 69°18.0'     |
| 4 ..... | 42°50.0'    | 69°21.0'     |
| 1 ..... | 42°50.0'    | 69°17.0'     |

(B) [Reserved]

\* \* \* \* \*

(4) Any sector may submit a written request to amend its approved operations plan to the Regional Administrator. If the amendment is administrative in nature, within the scope of and consistent with the actions and impacts previously considered for

current sector operations, the Regional Administrator may approve an administrative amendment in writing. The Regional Administrator may approve substantive changes to an approved operations plan in a manner consistent with the Administrative Procedure Act and other applicable law. All approved operations plan amendments will be published on the regional office Web site and will be provided to the Council.

(d) *Approved sector allocation proposals.* Eligible NE multispecies vessels, as specified in paragraph (a)(3) of this section, may participate in the sectors identified in paragraphs (d)(1) through (25) of this section, provided the operations plan is approved by the Regional Administrator in accordance with paragraph (c) of this section and each participating vessel and vessel operator and/or vessel owner complies with the requirements of the operations plan, the requirements and conditions specified in the letter of authorization issued pursuant to paragraph (c) of this section, and all other requirements specified in this section. All operational aspects of these sectors shall be specified pursuant to the operations plan and sector contract, as required by this section.

- (1) GB Cod Hook Sector.
- (2) GB Cod Fixed Gear Sector.
- (3) Sustainable Harvest Sector.
- (4) Sustainable Harvest Sector II.
- (5) Sustainable Harvest Sector III.
- (6) Port Clyde Community Groundfish Sector.
- (7) Northeast Fishery Sector I.
- (8) Northeast Fishery Sector II.
- (9) Northeast Fishery Sector III.
- (10) Northeast Fishery Sector IV.
- (11) Northeast Fishery Sector V.
- (12) Northeast Fishery Sector VI.
- (13) Northeast Fishery Sector VII.
- (14) Northeast Fishery Sector VIII.
- (15) Northeast Fishery Sector IX.
- (16) Northeast Fishery Sector X.
- (17) Northeast Fishery Sector XI.
- (18) Northeast Fishery Sector XII.
- (19) Northeast Fishery Sector XIII.
- (20) Tristate Sector.
- (21) Northeast Coastal Communities Sector.
- (22) State of Maine Permit Banking Sector.
- (23) State of Rhode Island Permit Bank Sector.
- (24) State of New Hampshire Permit Bank Sector.
- (25) State of Massachusetts Permit Bank Sector.
- (e) \* \* \*
- (3) \* \* \*
- (iv) *Reallocation of GB haddock or GB cod ACE.* Subject to the terms and conditions of the state-operated permit



bank's MOAs with NMFS, a state-operated permit bank may re-allocate all, or a portion, of its GB haddock or GB cod ACE specified for the Eastern U.S./Canada Area to the Western U.S./Canada Area provided it complies with the requirements in paragraph (b)(1)(i)(B)(2) of this section.

\* \* \* \* \*

#### § 648.89 [Amended]

■ 5. In § 648.89, remove and reserve paragraph (f)(3)(ii).

[FR Doc. 2016-10051 Filed 4-29-16; 8:45 am]

BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 160120042-6337-02]

RIN 0648-BF69

#### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Groundfish Fishery; Fishing Year 2016; Recreational Management Measures

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

**ACTION:** Final rule.

**SUMMARY:** This action sets the recreational management measures for Gulf of Maine cod and haddock for the

2016 fishing year. This action is intended to increase recreational fishing opportunities for cod and haddock consistent with the 2016 catch limits for these stocks, while ensuring the quotas are not exceeded. This action is expected to facilitate the recreational fishery achieving the recreational quotas for 2016.

**DATES:** Effective May 1, 2016.

**ADDRESSES:** Copies of a supplemental environmental assessment (EA) to Framework Adjustment 55 to the Northeast Multispecies Fishery Management Plan prepared by the Greater Atlantic Regional Fisheries Office and Northeast Fisheries Science Center; and the Framework 55 EA prepared by the New England Fishery Management Council for this rulemaking are available from: John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. The Framework 55 EA and supplement are also accessible via the Internet at: <http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/>. These documents are also accessible via the Federal eRulemaking Portal: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mark Grant, Sector Policy Analyst, phone: 978-281-9145; email: [Mark.Grant@noaa.gov](mailto:Mark.Grant@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

##### Statutory Authority

Under the Northeast Multispecies Fishery Management Plan (FMP),

specific sub-annual catch limits (sub-ACL) for the recreational fishery are established for each fishing year for Gulf of Maine (GOM) cod and haddock. The regulations at 50 CFR 648.89(f)(3) authorize the Regional Administrator, in consultation with the New England Fishery Management Council (Council), to modify the recreational management measures for the upcoming fishing year to ensure the recreational fishery achieves, but does not exceed, the recreational fishery sub-ACLs. The proposed rule for this action published in the **Federal Register** (81 FR 11168; March 3, 2016) provides details on the consultation with the Council and how the Council developed its recommendations; that information is not repeated here.

#### Fishing Year 2016 Recreational Management Measures

After consulting with the Council, we are increasing recreational fishing opportunities for GOM cod and haddock. Starting May 1, 2016, anglers may retain 1 cod per day during August and September, and may keep up to 15 haddock per day for most of the fishing year. Table 1 provides the new measures effective with the start of fishing year 2016 (May 1, 2016) compared to the current measures. These measures are based on the fishing year 2016 recreational quotas, and removal of the GOM cod retention prohibition approved and implemented as part of Framework Adjustment 55 to the Northeast Multispecies FMP.

**Table 1. Changes to GOM Cod and Haddock Recreational Management Measures for 2016**

| Stock       | Current Measures                           |                     |  | New 2016 Measures                          |                     |                                      |
|-------------|--|---------------------|--|--|---------------------|--------------------------------------|
|             | Per Day Possession Limit (fish per angler) | Minimum Fish Size   | Season When Possession is Permitted                                    | Per Day Possession Limit (fish per angler) | Minimum Fish Size   | Season When Possession is Permitted  |
| GOM Cod     | Possession Prohibited Year-Round           |                     |  | 1  | 24 inches (61.0 cm) | August 1 – September 30              |
| GOM Haddock | 3  | 17 inches (43.2 cm) | May 1, 2015 – August 31, 2015 and November 1, 2015 - February 29, 2016 | 15   | 17 inches (43.2 cm) | Year Round Except March 1 - April 14 |

For 2016, the GOM haddock recreational sub-ACL is increasing 149 percent compared to 2015, based on continued growth of the stock biomass. Although GOM cod remains overfished and subject to overfishing, biomass has

increased slightly, and the GOM cod recreational sub-ACL is increasing 30 percent compared to 2015. A more detailed summary of these catch limits, and the removal of the cod prohibition,

is provided in the Framework 55 final rule and not repeated here.

#### Changes From Proposed Rule

On March 3, 2016, we published a proposed rule in the **Federal Register**