

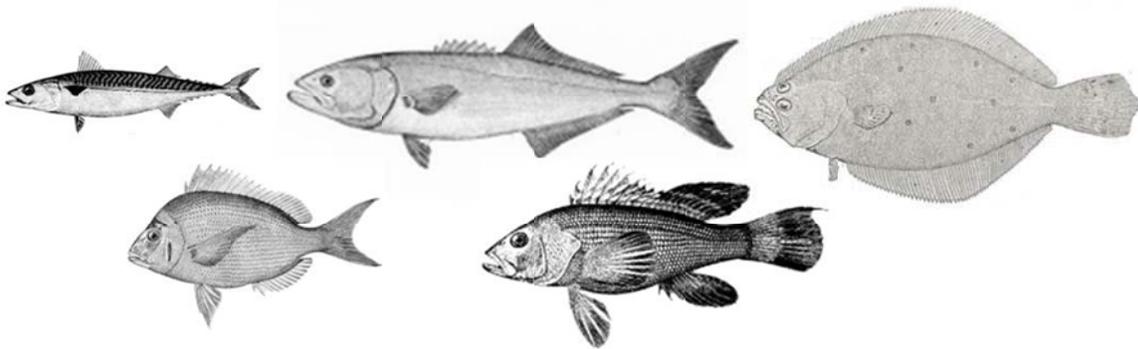
OMNIBUS RECREATIONAL ACCOUNTABILITY MEASURE AMENDMENT

**AMENDMENT 17 TO THE
ATLANTIC MACKEREL, SQUIDS, AND BUTTERFISH FISHERY
MANAGEMENT PLAN**

**AMENDMENT 4 TO THE
BLUEFISH FISHERY MANAGEMENT PLAN**

**AMENDMENT 19 TO THE
SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS
FISHERY MANAGEMENT PLAN**

(Includes Environmental Assessment)



**Mid-Atlantic Fishery Management Council
in cooperation with
the National Marine Fisheries Service**

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1.0 EXECUTIVE SUMMARY

Background

This Amendment and Environmental Assessment presents and evaluates alternatives to the existing accountability measures (AMs) for the recreational Atlantic mackerel, bluefish, summer flounder, scup, and black sea bass fisheries. These recreational fisheries are managed by the Mid- Atlantic Fishery Management Council (Council) and administered by the National Marine Fisheries Service (NMFS) Northeast Regional Office (NERO) through three Fishery Management Plans (FMPs). Specifically, this Omnibus document would amend the Atlantic Mackerel, Squid, and Butterfish FMP, the Bluefish FMP, and the Summer Flounder, Scup, and Black Sea Bass FMP. The existing AMs for these recreational fisheries were established in the Council's Omnibus Annual Catch Limit (ACL) and Accountability Measure Amendment (MAFMC 2011) which was implemented in order to ensure FMP compliance with the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSA). The methods for setting Allowable Biological Catch (ABC) and ACLs and the Council's Risk Policy were established in MAFMC (2011) and are not the subject of this amendment, nor are AMs for any of the Council's commercial fisheries.

According to NMFS' National Standard 1 Guidelines (Guidelines), "AMs are management controls to prevent ACLs, including sector-ACLs, from being exceeded, and to correct or mitigate overages of the ACL if they occur." Also, AMs are invoked to "address the operational issue that caused the overage." The recreational AMs currently in place involve both proactive and reactive components. Proactive AMs function to prevent the ACL from being exceeded by putting measures in place to achieve an Annual Catch Target (ACT) that is reduced from ACL by some measure of management uncertainty. Reactive AMs are a response to catch exceeding the ACL, and are intended to correct the issue that caused the overage.

Problem Statement

Under the Omnibus ACL/AM Amendment, AMs for the Council's recreational fisheries include a pound-for-pound reduction from a subsequent year ACT when the recreational catch estimate exceeds the ACL. Paybacks were initially developed with an understanding that they would be a required component of fishery accountability under the MSRA. Subsequent interpretation of the Guidelines, however, indicates that paybacks may be a more severe approach than necessary for healthy fish stocks, suggesting that paybacks are more appropriate when a stock is undergoing rebuilding. Additionally, payback of catch overages does not have a strong biological basis when an overage does not meaningfully diminish the condition of the stock relative to the biomass target (i.e., Bmsy) or when an overage is caused by abundance of the target species being underestimated. None of the Council's recreational fisheries is overfished, nor is overfishing occurring for any of these fisheries.

Alternative proactive AMs are also being considered in this amendment. The proactive AMs that were established through the previous amendment consist of an ACT and in-season closure authority for the NERO. The Council is considering alternatives for the administration of these AMs.

Proposed Alternatives

When possible, for the alternatives described below, the existing regulatory language is provided *in italics* for the No Action / Status Quo alternative compared to action alternatives which are described with replacement regulatory language indicated by underlining. Other alternatives under consideration, primarily reactive AM alternatives are “process alternatives”, each of which describes a set of nested management responses that incorporate stock condition and any catch threshold that could potentially be exceeded. These alternatives are also described in table form as indicated below.

Proactive AM Alternatives

Proactive AMs are actions intended to prevent a catch limit from being exceeded and, as such, are put in place either before the fishing year starts or if within-season data indicate a need, before the fishing year ends. These include limits on, bag, size, and season which are intended to constrain or reduce the ability of recreational fishermen to catch a given species thus constraining catch to a desired level which is typically an ACT. The exercise of in-season closure authority is also a pro-active accountability measure when its exercise prevents an ACL from being exceeded, but this necessitates adjusting measures or closing the season before the ACL has been reached.

ACT

Alternative 1A. No Action/Status Quo. Maintain Current Regulatory Language for Determination of ACT. *Monitoring Committee [for the relevant species] shall identify and review the relevant sources of management uncertainty to recommend ACTs for the recreational fishing sector as part of the specification process. The Monitoring Committee recommendations shall identify the specific sources of management uncertainty that were considered, technical approaches to mitigating these sources of uncertainty, and any additional relevant information considered in the ACT recommendation process.*

Alternative 1B. Mandatory Review of ACT = ACL – Uncertainty in Recreational Catch Estimates. *Monitoring Committee [for the relevant species] shall identify and review the relevant sources of management uncertainty to recommend ACTs for the recreational fishing sector as part of the specification process, including explicit consideration of a reduction from the ACL based on uncertainty in recreational catch estimates. The Monitoring Committee recommendations shall identify the specific sources of management uncertainty that were considered, technical approaches to*

mitigating these sources of uncertainty, and any additional relevant information considered in the ACT recommendation process.

Alternative 1C. Mandatory Setting of ACT = ACL – Uncertainty in Recreational Catch Estimates. *Monitoring Committee [for the relevant species] shall calculate ACTs for the recreational fishing sector as part of the specification process where ACT = ACL – Uncertainty in Recreational Catch Estimates. The Monitoring Committee recommendations shall also identify other specific sources of management uncertainty that were considered, technical approaches to mitigating these sources of uncertainty, and any additional relevant information considered in the ACT recommendation process.*

Alternative 1D. ACL/ACT Post Hoc Evaluation. *The ACL/ACT that was set for a given fishing year is re-evaluated based on an updated assessment.*

Expectations about future population size are the basis for setting ABC and ACL/ACT in a given year. These expectations are often based on population projections that include assumptions about future recruitment of year classes into the fishery. An assessment update, on the other hand, is informed by observed catches and fishery-independent measures of year class strength. Because the assessment update is based on observed data, it tends to be more stable and less speculative than a projection of future conditions. Additionally, as data accumulate about the relative size of year classes in a fishery, the assessment stabilizes even further. In order to evaluate whether the operational issue that caused an overage was an underestimate of future population abundance in a projection, the ACL that was set based on a projection can be re-evaluated after an assessment update has been done. If the availability of additional information in an assessment update indicates that the ACL could have been set a level such that realized landings would not have produced an overage, then no adjustment to management measures may be needed. A metric for assessing this could be a determination that overfishing did not occur. If abundance estimates remain reasonably consistent, then increased effort will be determined as the cause of the overage such that more restrictive effort controls will be considered. Additionally, the update will provide the basis for “stock condition” as illustrated in Tables 1 and 2 below. This alternative could be adopted in addition to the other ACT alternatives.

In Season Closure Authority

Alternative 2A. No Action / Status Quo. Maintain Current In Season Closure Authority for the Regional Administrator. *The Regional Administrator will monitor recreational landings based on the best available data and shall determine if the recreational harvest limit has been met or exceeded. The determination will be based on observed landings and will not utilize projections of future landings. At such time that the available data indicate that the recreational harvest limit has been met or exceeded, the Regional Administrator shall publish notification in the Federal Register advising that,*

effective on a specific date, the recreational fishery in the EEZ shall be closed for remainder of the calendar year.

Alternative 2B. Early Closure with In Season Projections. *The Regional Administrator will monitor recreational landings based on the best available data and shall consider whether projections of future landings indicate that the recreational harvest limit will be met prior to the close of the fishing season. If the recreational harvest limit is projected to be met prior to the close of the season, the Regional Administrator shall publish notification in the Federal Register advising that, effective on a specific date, the recreational fishery in the EEZ shall be closed for remainder of the calendar year.*

Alternative 2C. Eliminate In-Season Closure Authority. Regulatory language regarding monitoring / closure of the recreational fisheries will be removed. This alternative, if chosen, would reflect a preference for addressing recreational overages in subsequent fishing years rather than imposing an early closure.

Alternative 2D. In-Season adjustment to bag, size, season, as possible. *The Regional Administrator will monitor recreational landings based on the best available data and shall consider whether landings indicate that the recreational harvest limit has been met prior to the close of the fishing season. If the recreational harvest limit is met prior to the close of the season, the Regional Administrator shall, in consultation with the Council, adjust management measures according to pre-arranged terms and conditions. This alternative would limit rather than close further landing of fish in a recreational fishery that has exceeded its RHL. The Council would set terms and conditions for the adjustment as part of recreational specifications so that the adjustment by the RA would be automatic. For example, the Council may recommend that the bag limit would be halved for the remainder of the season if the RHL has been determined to have been reached.*

Reactive AMs

Reactive AMs are triggered when management controls have failed to prevent a catch limit from being exceeded. As such, there are two components to reactive AMs, 1) the trigger, or what has to occur for an accountability measure to be implemented, presented below in Alternatives 3A-3D, and (2) the management response that follows if the trigger condition is met (such as a reduction in a future year's bag limit or ACT), presented below in Alternatives 4A-4D. Finally, the implementation of the management response (that is, how the adjustments are calculated) are presented in Alternatives 5A-5D.

Trigger Conditions

Alternative 3A. No Action / Status Quo for Summer Flounder Scup Black Sea Bass. Maintain Phase-In Comparing Three Year Average of Recreational Catch

Estimates to Three Year Average of ACL. *The recreational sector ACL will be evaluated based on a 3-year moving average comparison of total catch (landings and dead discards). Both landings and dead discards will be evaluated in determining if the 3-year average recreational sector ACL has been exceeded. The 3-year moving average will be phased in over the first 3 years, beginning with 2012: Total recreational total catch from 2012 will be compared to the 2012 recreational sector ACL; the average total catch from both 2012 and 2013 will be compared to the average of the 2012 and 2013 recreational sector ACLs; the average total catch from 2012, 2013, and 2014 will be compared to the average of the 2012, 2013, and 2014 recreational sector ACLs and, for all subsequent years, the preceding 3-year average recreational total catch will be compared to the preceding 3-year average recreational sector ACL.*

Alternative 3B. No Action / Status Quo for Atlantic Mackerel and Bluefish Single Year Comparison. *The recreational sector ACL will be evaluated based on an annual comparison of the total catch estimate (landings and dead discards). Both landings and dead discard estimates will be evaluated in determining if the recreational sector ACL has been exceeded.*

Alternative 3C. Confidence Interval. *When a stock is not overfished and overfishing is not occurring for that stock, the recreational sector ACL will be evaluated based on an annual comparison of an appropriate confidence interval of the total catch estimates (landings and dead discards), where the entire confidence interval (i.e., including the lower confidence limit) is above the recreational ACL to trigger an AM. Both landings and dead discard estimates will be evaluated in determining if the recreational sector ACL has been exceeded.*

Alternative 3D. Repeat Overage. *The recreational sector ACL will be evaluated based on an annual comparison of the total catch estimate (landings and dead discards), where the recreational catch estimate must be above the recreational ACL more than once in any four year period to trigger an AM. Both landings and dead discard estimates will be evaluated in determining if the recreational sector ACL has been exceeded.*

Management Response

Unlike the no action alternative, the action alternatives contemplated as management responses in this amendment take into account stock condition and the different catch thresholds that could be exceeded. These alternatives are illustrated in Tables 1 – 4 below.

Under each management response alternative, stock condition is considered to potentially be in one of three bins relative to the biomass reference points and any potential rebuilding schedule. In other words the management response could be different if stock

biomass is 1) above Bmsy and rebuilt, 2) below Bmsy but above $\frac{1}{2}$ Bmsy and not in rebuilding, or 3) below $\frac{1}{2}$ Bmsy or in rebuilding. Additionally, the management response could be different if the recreational catch is 1) above the recreational ACL (Rec ACL) only, 2) above the Rec ACL and the combined recreational and commercial catch is above ABC, or 3) above the Rec ACL and the combined recreational and commercial catch is above OFL.

The management responses under consideration consist of three tiered components: 1) monitoring, 2) bag, size, season adjustment, or 3) payback of the overage amount performance. These are cumulative responses, such that if a tier 2 or 3 response is triggered, then all the responses below that tier are also invoked. For example if bag, size season adjustment occurs, so does monitoring. In these alternatives, monitoring is considered an accountability measure in that the behavior of the recreational fishery in a subsequent year is monitored with the possibility of early closure.

Alternative 4A. No Action / Status Quo. Maintain Pound for Pound Payback for any Overage of the Recreational ACL. ... *the exact amount of the landings overage (in pounds) will be deducted, as soon as possible, from a subsequent single fishing year recreational sector ACT.*

Under this alternative, the condition of the stock and the contribution of a recreational overage to an overage of other catch thresholds (ABC, OFL) are not considered. Nevertheless, because these exist anyway, the tables used to illustrate the other process alternatives is adapted for this alternative in Table 1.

Alternative 4B. Payback when Stock is Overfished or when OFL is Exceeded. ... *the overage (in pounds) will be deducted, as soon as possible, from a subsequent single fishing year recreational sector ACT only if the stock is overfished and/or OFL has been exceeded. When these conditions are not met, AMs will consist of adjustment to bag/size/season and in-season monitoring for early closure when the recreational overage caused ABC to be exceeded, or in-season monitoring only when only the Rec ACL has been exceeded.*

Under this alternative, the condition of the stock and the contribution of a recreational overage to overages of other catch thresholds (ABC, OFL) are considered as shown in Table 1 under Alt 4B.

Alternative 4C. Payback when Stock is Overfished or when OFL is Exceeded. ... *the overage (in pounds) will be deducted, as soon as possible, from a subsequent single fishing year recreational sector ACT only if the stock is overfished and/or OFL has been exceeded AND B/Bmsy is <1. When these conditions are not met, AMs will consist of adjustment to bag/size/season and in-season monitoring for early closure when the recreational overage caused OFL to be exceeded, but B/Bmsy >1, or caused ABC to be exceeded. In-season monitoring only will occur when only the Rec ACL has been exceeded.*

Under this alternative, the condition of the stock and the contribution of a recreational overage to overages of other catch thresholds (ABC, OFL) are considered as shown in Table 1 under Alt 4C.

Alternative 4D. No Payback. ... *If the stock is overfished or in rebuilding, or $B/B_{msy} < 1$ and OFL has been exceeded, then adjustments to bag, size, and season will occur. Otherwise monitoring only will occur.*

Under this alternative, the condition of the stock and the contribution of a recreational overage to overages of other catch thresholds (ABC, OFL) are considered as shown in Table 1 under Alt 4D.

Alternative 4E. Payback when the Stock is Overfished or when ABC is Exceeded. ... *if the stock is overfished or when the combined recreational and commercial ACL (i.e., ABC) has been exceeded. When these conditions are not met, AMs will consist of adjustment to bag/size/season and in-season monitoring for early closure when the recreational overage caused OFL to be exceeded, but $B/B_{msy} > 1$, or caused ABC to be exceeded. In-season monitoring only will occur when only the Rec ACL has been exceeded*

Under this alternative, the condition of the stock and the contribution of a recreational overage to overages of other catch thresholds (ABC, OFL) are considered as shown in Table 1 under Alt 4E.

Table 1. Process by which reactive accountability measures will be applied conditional on stock status and the threshold that was exceeded.

Stock Condition		Overage Type		
		$C_R > ACL_R, C_{R+C} < ABC$	$C_R > ACL_R, C_{R+C} > ABC, C_{R+C} < OFL$	$C_R > ACL_R, C_{R+C} > OFL$
Alt 4A	$B/Bmsy > 1$	Payback		
	$1 > B/Bmsy > \frac{1}{2}$ and not in rebuilding			
	$\frac{1}{2} > B/Bmsy$ or in rebuilding			
Alt 4B	$B/Bmsy > 1$	$C_R > ACL_R, C_{R+C} < ABC$	$C_R > ACL_R, C_{R+C} > ABC, C_{R+C} < OFL$	$C_R > ACL_R, C_{R+C} > OFL$
		Monitor	Bag, Size Season	Payback
			Monitor	Bag, Size Season
	$1 > B/Bmsy > \frac{1}{2}$ and not in rebuilding	Monitor	Bag, Size Season	Payback
			Monitor	Bag, Size Season
		$\frac{1}{2} > B/Bmsy$ or in rebuilding	Payback	Payback
	Bag, Size Season		Bag, Size Season	Bag, Size Season
	Monitor		Monitor	Monitor

Table 1 Continued. Process by which reactive accountability measures will be applied conditional on stock status and the threshold that was exceeded.

Stock Condition		Overage Type		
		$C_R > ACL_{R_t}, C_{R+C} < ABC$	$C_R > ACL_{R_t}, C_{R+C} > ABC, C_{R+C} < OFL$	$C_R > ACL_{R_t}, C_{R+C} > OFL$
Alt 4C	B/Bmsy > 1	In-Season Closure	Bag, Size Season	Bag, Size Season
			Monitor	Monitor
	1 > B/Bmsy > ½ and not in rebuilding	In-Season Closure	Bag, Size Season	Payback
			Monitor	Bag, Size Season
	½ > B/Bmsy or in rebuilding	Payback	Payback	Payback
		Bag, Size Season	Bag, Size Season	Bag, Size Season
		Monitor	Monitor	Monitor

Stock Condition		Overage Type		
		$C_R > ACL_{R_t}, C_{R+C} < ABC$	$C_R > ACL_{R_t}, C_{R+C} > ABC, C_{R+C} < OFL$	$C_R > ACL_{R_t}, C_{R+C} > OFL$
Alt 4D	B/Bmsy > 1	In-Season Closure	In-Season Closure	In-Season Closure
	Monitor			
	½ > B/Bmsy or in rebuilding	Bag, Size Season	Bag, Size Season	Bag, Size Season
		Monitor	Monitor	Monitor

Table 1 Continued. Process by which reactive accountability measures will be applied conditional on stock status and the threshold that was exceeded.

Alt 4E		$C_R > ACL_R, C_{R+C} < ABC$	$C_R > ACL_R, C_{R+C} > ABC, C_{R+C} < OFL$	$C_R > ACL_R, C_{R+C} > OFL$
	$B/Bmsy > 1$	In-Season Closure	Payback	Payback
			Bag, Size Season	Bag, Size Season
			Monitor	Monitor
	$1 > B/Bmsy > \frac{1}{2}$ and not in rebuilding	In-Season Closure	Payback	Payback
			Bag, Size Season	Bag, Size Season
			Monitor	Monitor
	$\frac{1}{2} > B/Bmsy$ or in rebuilding	Payback	Payback	Payback
		Bag, Size Season	Bag, Size Season	Bag, Size Season
		Monitor	Monitor	Monitor

Payback Calculation Alternatives

These alternatives address the existing recreational payback provision wherein, for summer flounder, scup, and black sea bass a phased in three year average of recreational catch is compared to the three year average of the Rec ACL is paid back pound for pound, and for Atlantic mackerel and bluefish an overage of the (Rec+Com) ACL is paid back pound for pound. In the alternatives contemplated by the Council, the calculation of the overage payback could be conditional on the status of the stock (B/Bmsy). The alternatives are provided in Table 2 where O = overage, C = Catch, R = Recreational, C = Commercial, C_{R+C} = combined recreational and commercial catch.

Alternative 5A. No Action / Status Quo. Payback Difference between the Catch Estimate and the Recreational ACL. ... *the exact amount of the landings overage (above the Rec ACL) in pounds will be deducted, ...*

Under this alternative, the condition of the stock and the contribution of a recreational overage to an overage of other catch thresholds (ABC, OFL) are not considered as shown in Table 2.

Alternative 5B. Payback ACL Overage only When Overfished.

Under this alternative, the condition of the stock and the contribution of a recreational overage to overages of other catch thresholds (ABC, OFL) are considered as shown in the middle panel in Table 2.

Alternative 5C. Payback ACL Overage only When Overfished/Overfishing.

Under this alternative, the condition of the stock and the contribution of a recreational overage to overages of other catch thresholds (ABC, OFL) are considered as shown in the bottom panel in Table 2.

Alternative 5D. Scaled Payback of the ACL Overage.

Under this alternative, the condition of the stock (B/B_{msy}) scales the payback amount. If $B/B_{msy} \geq 1$, no payback is needed. If $1 \geq B/B_{msy} \geq \frac{1}{2}$, then the payback is the product of the overage and B/B_{msy} . If $B/B_{msy} \leq \frac{1}{2}$, then the payback is pound for pound.

Alternative 5E. No Payback.

This alternative would eliminate paybacks of overages. The basis for this is the general absence of biological processes and conditions considered in administering paybacks.

Table 2. Process by which the overage payback will be calculated conditional on stock status and the threshold that was exceeded.

		$C_R > ACL_R < ABC$	$C_R > ACL_R, C_{R+C} > ABC$	$C_R > ACL_R, C_{R+C} > OFL$
Alt 5A	$B/B_{msy} > 1$	$C_R - ACL_R$		
	$1 > B/B_{msy} > 1/2$			
	$1/2 > B/B_{msy}$			
		$C_R > ACL_R < ABC$	$C_R > ACL_R, C_{R+C} > ABC$	$C_R > ACL_R, C_{R+C} > OFL$
Alt 5B	$B/B_{msy} > 1$	0	0	$O_R/O_{R+C} * C_{R+C} - OFL$
	$1 > B/B_{msy} > 1/2$	0	$O_R/O_{R+C} * C_{R+C} - ABC$	$O_R/O_{R+C} * C_{R+C} - ABC$
	$1/2 > B/B_{msy}$	$C_R - ACL_R$	$C_R - ACL_R$	$C_R - ACL_R$
		$C_R > ACL_R < ABC$	$C_R > ACL_R, C_{R+C} > ABC$	$C_R > ACL_R, C_{R+C} > OFL$
Alt 5C	$B/B_{msy} > 1$	0	0	0
	$1 > B/B_{msy} > 1/2$	0	0	$O_R/O_{R+C} * C_{R+C} - OFL$
	$1/2 > B/B_{msy}$	0	$O_R/O_{R+C} * C_{R+C} - ABC$	$C_R - ACL_R$

Impacts of the Alternatives

Due to the administrative nature of the alternatives being considered in this amendment there are no direct impacts on the human environment. There are however indirect impacts primarily on the socio-economic components of the environment. These impacts are positive in that they would prevent the implementation of punitive catch reductions.

(More on this as Section 7 is developed)

Cumulative Impacts

The biological, Essential Fish Habitat (EFH), protected resources, social, and economic impacts of the alternatives contained within this document were analyzed. When the Council proposed action is considered in conjunction with all the other pressures placed on fisheries by past, present, and reasonably foreseeable future actions, it is not expected to result in any significant impacts, positive or negative; therefore, there are no significant cumulative effects associated with the action proposed in this document.

2.0 LIST OF ACRONYMS

ABC	Acceptable Biological Catch
ACL	Annual Catch Limit
ACT	Annual Catch Target
AM	Accountability Measure
APA	Administrative Procedures Act
ASMFC	Atlantic States Marine Fisheries Commission or Commission
B	Biomass
CEQ	Council on Environmental Quality
CZMA	Coastal Zone Management Act
DAH	Domestic Annual Harvest
DAP	Domestic Annual Processing
EA	Environmental Assessment
EEZ	Exclusive Economic Zone
EIS	Environmental Impact Statement
ESA	Endangered Species Act of 1973
F	Fishing Mortality Rate
FR	Federal Register
FMP	Fishery Management Plan
FONSI	Finding of No Significant Impact
IOY	Initial Optimum Yield
IQA	Information Quality Act
JVP	Joint Venture Processor/Processing
M	Natural Mortality Rate
MAFMC	Mid-Atlantic Fishery Management Council
MRFSS	Marine Recreational Fisheries Statistical Survey
MSA	Magnuson-Stevens Fishery Conservation and Management Act
MSY	Maximum Sustainable Yield
mt	metric tons
NEFSC	Northeast Fisheries Science Center
NEPA	National Environmental Policy Act
NERO	Northeast Regional Office
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NS1	National Standard 1
MMPA	Marine Mammal Protection Act
MSA	Magnuson-Stevens Act (portions retained plus revisions)
MSRA	Magnuson-Stevens Fishery Conservation and Management Reauthorization Act
OFL	Overfishing limit
OY	Optimal Yield
PRA	Paperwork Reduction Act
RFA	Regulatory Flexibility Act
RHL	Recreational Harvest Limit
RIR	Regulatory Impact Review
RQ	Research Quota
RSA	Research Set-Aside
SSB	Spawning Stock Biomass
SSC	Scientific and Statistical Committee
TAC	Total Allowable Catch
TAL	Total Allowable Landings
TALFF	Total Allowable Level of Foreign Fishing
VECs	Valued Ecosystem Components

3.0 TABLE OF CONTENTS

1.0 EXECUTIVE SUMMARY	II
2.0 LIST OF ACRONYMS	XIV
3.0 TABLE OF CONTENTS	1
3.1 LIST OF TABLES	3
3.2 LIST OF FIGURES.....	3
ENVIRONMENTAL ASSESSMENT	4
4.0 INTRODUCTION AND PURPOSE AND NEED	4
4.1 INTRODUCTION.....	4
4.2 THE RECREATIONAL FISHERIES.....	4
4.3 PURPOSE AND NEED FOR ACTION.....	4
5.0 MANAGEMENT ALTERNATIVES.....	5
5.1 NO ACTION	5
5.2 PROACTIVE ACCOUNTABILITY MEASURES.....	6
5.3 REACTIVE AMS	9
6.0 DESCRIPTION OF THE AFFECTED ENVIRONMENT AND FISHERIES.....	17
6.1 DESCRIPTION OF THE MANAGED RESOURCES	18
6.1.1 Existing Accountability Measures	18
6.1.2 Stock Status	21
6.1.3 Description of Stock Characteristics, and Ecological Relationships	21
6.2 NON-TARGET SPECIES	22
6.3 HABITAT (INCLUDING ESSENTIAL FISH HABITAT).....	22
6.4 ENDANGERED AND PROTECTED RESOURCES.....	22
6.5 HUMAN COMMUNITIES AND ECONOMIC ENVIRONMENT	22
6.5.1 Description of the Fisheries	22
7.0 ENVIRONMENTAL CONSEQUENCES AND REGULATORY ECONOMIC EVALUATION OF ALTERNATIVES	24
7.1 ACT ALTERNATIVES	24
7.2 IN SEASON CLOSURE ALTERNATIVES	25
7.3 TRIGGER CONDITION ALTERNATIVES	25
7.4 MANAGEMENT RESPONSE ALTERNATIVES.....	26
7.5 PAYBACK CALCULATION ALTERNATIVES.....	27
7.6 Magnitude and Significance of Cumulative Effects	29
8.0 APPLICABLE LAWS.....	30
8.1 MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT (MSA) AND NATIONAL STANDARDS	30
8.2 NEPA (FONSI).....	30
8.3 ENDANGERED SPECIES ACT.....	31
8.4 MARINE MAMMAL PROTECTION ACT	32
8.5 COASTAL ZONE MANAGEMENT ACT	32
8.6 ADMINISTRATIVE PROCEDURE ACT.....	32
8.7 SECTION 515 (DATA QUALITY ACT).....	33
8.8 PAPERWORK REDUCTION ACT (PRA)	33
8.9 IMPACTS OF THE PLAN RELATIVE TO FEDERALISM/EO 13132	34
8.10 ENVIRONMENTAL JUSTICE/EO 12898.....	34
8.10 REGULATORY IMPACT REVIEW/INITIAL REGULATORY FLEXIBILITY ANALYSIS.....	34
8.10.1 Basis and Purpose for the Action.....	35
8.10 REGULATORY FLEXIBILITY ANALYSIS (RFA/IRFA)	35

8.10.2 Evaluation of E.O 12866 Significance	35
8.10.2.1 Description of the Management Objectives.....	35
8.10.2.2 Description of the Fishery.....	35
8.10.2.3 A Statement of the Problem.....	35
8.10.2.4 A Description of Each Alternative	36
8.10.2.5 Determination of Significance under E.O. 12866.....	36
8.10.3 Initial Regulatory flexibility Analysis.....	37
8.10.3.1 Description and Estimate of Number of Small Entities to Which the Action Applies	37
8.10.3.2 Economic Impacts on Small Entities	38
8.10.3.2.1 Accountability Measures	38
8.11.3.3 Criteria Used to Evaluate the Action.....	39
8.11.3.3.1 Significant Economic Impacts.....	39
8.11.3.3.1.1 Disproportionality.....	39
8.11.3.3.1.2 Profitability	39
8.11.3.4 Substantial Number of Small Entities	39
8.11.3.5 Description of and Explanation of, the Basis for All Assumptions Used	39
9.0 EFH ASSESSMENT	39
9.1 DESCRIPTION OF ACTION	40
9.2 ANALYSIS OF POTENTIAL ADVERSE EFFECTS ON EFH.....	40
10.0 LITERATURE CITED	40
11.0 LIST OF PREPARERS OF THE ENVIRONMENTAL ASSESSMENT	44
12.0 LIST OF AGENCIES AND PERSONS CONSULTED	45
GLOSSARY	46

3.1 LIST OF TABLES

TABLE 1. PROCESS BY WHICH REACTIVE ACCOUNTABILITY MEASURES WILL BE APPLIED CONDITIONAL ON STOCK STATUS AND THE THRESHOLD THAT WAS EXCEEDED.	IX
TABLE 2. PROCESS BY WHICH THE OVERAGE PAYBACK WILL BE CALCULATED CONDITIONAL ON STOCK STATUS AND THE THRESHOLD THAT WAS EXCEEDED.	XIII
TABLE 3. PROCESS BY WHICH REACTIVE ACCOUNTABILITY MEASURES WILL BE APPLIED CONDITIONAL ON STOCK STATUS AND THE THRESHOLD THAT WAS EXCEEDED.	14
TABLE 4. PROCESS BY WHICH THE OVERAGE PAYBACK WILL BE CALCULATED CONDITIONAL ON STOCK STATUS AND THE THRESHOLD THAT WAS EXCEEDED.	17
TABLE 5. CATCH LEVELS AND THRESHOLDS IN 2012 ASSOCIATED WITH THE FIVE RECREATIONAL FISHERIES ADDRESSED IN THIS AMENDMENT. ALL VALUES ARE IN M LB.	20
TABLE 6. STOCK STATUS BASED ON NMFS SECOND QUARTER STATUS OF STOCKS REPORT TO CONGRESS.	21
TABLE 7. AVERAGE NOMINAL DAILY TRIP EXPENDITURES BY RECREATIONAL FISHERMEN IN THE NORTHEAST REGION BY MODE IN 2006.	23
TABLE 8. INDIRECT IMPACTS ON VALUED ECOSYSTEM COMPONENTS	28

3.2 LIST OF FIGURES

NO TABLE OF FIGURES ENTRIES FOUND.

ENVIRONMENTAL ASSESSMENT

4.0 INTRODUCTION AND PURPOSE AND NEED

4.1 Introduction

Accountability measures are a necessary component of federal fishery management plans according to the MSRA. According to the National Standard 1 Guidelines (Guidelines), “AMs are management controls to prevent ACLs, including sector-ACLs, from being exceeded, and to correct or mitigate overages of the ACL if they occur.” The recreational AMs currently in place involve both proactive and reactive components. Proactive AMs function to prevent the ACL from being exceeded by putting measures in place to achieve an Annual Catch Target that is reduced from ACL by some measure of management uncertainty. Reactive AMs are a response to catch exceeding the ACL, and are intended to address the operational issue that caused the overage. The current reactive AMs for the Council’s recreational fisheries include a pound-for-pound reduction from a subsequent year ACT when the recreational catch estimate exceeds the ACL, regardless of stock condition. This is a more punitive AM approach than necessary under the Guidelines, which suggest, but do not require that a payback be considered for stocks undergoing rebuilding. None of the Council’s recreational fisheries is overfished or in rebuilding, nor is overfishing occurring for any of these fisheries. The general approach in this amendment is to propose that reactive AMs be scaled to the severity of the management error. Additionally, it is proposed that the conditions that trigger reactive AMs incorporate the uncertainty inherent in recreational fishery catch estimates and recreational management controls.

4.2 The Recreational Fisheries

This amendment addresses only stocks managed by the Council for which recreational fishery ACLs and AMs have been established. These include Atlantic mackerel, bluefish, summer flounder, scup, and black sea bass.

4.3 Purpose and Need for Action

The purpose of this action is to evaluate and implement AMs that consider the biological cost of any catch overage and that recognize the generally uncertain nature of recreational fishery catch estimates and recreational management controls. The need for this action is to consider other accountability measures, in addition to the current pound-for-pound reductions and in-season closures.

5.0 MANAGEMENT ALTERNATIVES

Each suite of alternatives in this section consists of a status quo/no action alternative, and one or more action alternatives that the Council considered when identifying preferred alternatives.

5.1 No Action

Section 5.03(b) of NOAA Administrative Order (NAO) 216-6, “Environmental review procedures for implementing the National Environmental Policy Act,” states that “an EA must consider all reasonable alternatives, including the preferred action and the no action alternative.” Consideration of the “no action” alternative is important because it shows what would happen if the proposed action is not taken. Defining exactly what is meant by the “no action” alternative is often difficult. The President’s Council on Environmental Quality (CEQ) has explained that there are two distinct interpretations of the “no action.” One interpretation is essentially the *status quo*, i.e., no change from the current management; and the other interpretation is when a proposed project, such as building a railroad facility, does not take place. In the case of the proposed action alternatives contained within this document to specify mechanisms to set ABC, ACLs, and AMs, and future review and modification of those actions for the managed resources of this Omnibus Amendment, it is slightly more complicated than either of these interpretations suggest. There is no analogue for these fisheries to the railroad project described above, where no action means nothing happens. The management regimes and associated management measures within the FMPs (section 4.2) for the managed resources have been refined over time and codified in regulation. The *status quo* management measures for the managed resources, therefore, each involve a set of indefinite (i.e., in force until otherwise changed) measures that have been established. These measures will continue as they are even if the actions contained within this document are not taken (i.e., no action). The no action alternative for these managed resources is therefore equivalent to *status quo*. On that basis, the status quo and no action are presented in conjunction (i.e., Status quo/no action alternative) for comparative impact analysis relative to the action alternatives.

5.2 Proactive Accountability Measures

Proactive AMs are actions intended to prevent a catch limit from being exceeded and, as such, are put in place either before the fishing year starts or if within-season data indicate a need, before the fishing year ends. These include limits on, bag, size, and season which are intended to constrain or reduce the ability of recreational fishermen to catch a given species thus constraining catch to a desired level which is typically an ACT. The exercise of in-season closure authority is also a pro-active accountability measure when its exercise prevents an ACL from being exceeded, but this necessitates adjusting measures or closing the season before the ACL has been reached.

ACT

The language below includes existing and alternative regulatory language for specifying an ACT. The same general language is used for all five recreational fisheries.

Alternative 1A. No Action/Status Quo. Maintain Current Regulatory Language for Determination of ACT. *Monitoring Committee [for the relevant species] shall identify and review the relevant sources of management uncertainty to recommend ACTs for the recreational fishing sector as part of the specification process.*

Alternative 1B. Mandatory Review of ACT = ACL – Uncertainty in Recreational Catch Estimates. *Monitoring Committee [for the relevant species] shall identify and review the relevant sources of management uncertainty to recommend ACTs for the recreational fishing sector as part of the specification process, including explicit consideration of a reduction from the ACL based on uncertainty in recreational catch estimates.*

This alternative obligates the monitoring committee to communicate the magnitude of the uncertainty in the recreational catch estimates to the council for consideration during specification setting. The uncertainty in the recreational catch estimates could be used as a reduction from ACL to ACT. In contrast to the no action/status quo alternative (Alternative 1A), which does not explicitly call out the uncertainty in the recreational catch estimate, this would alternative would require the monitoring committee to present an estimate of the amount of uncertainty in the catch estimate for the Council. The Council could then choose to reduce the ACT from the ACL by that amount, or some other estimate of management uncertainty, including 0.

Alternative 1C. Mandatory Setting of ACT = ACL – Uncertainty in Recreational Catch Estimates. *Monitoring Committee [for the relevant species] shall calculate ACTs for the recreational fishing sector as part of the specification process where ACT = ACL – Uncertainty in Recreational Catch Estimates.*

This alternative would establish that the uncertainty in the recreational catch estimates be used as a reduction from ACL to ACT regardless of any other mitigating circumstances such as stock condition or underperformance of the commercial fishery. In contrast to Alternative 1B, this alternative would obligate the Council to reduce the ACT from the ACL by the amount specified by the monitoring committee regarding uncertainty in the recreational catch estimate. The Council could also have additional sources of management uncertainty that would reduce ACT further.

Alternative 1D ACL/ACT Post Hoc Evaluation. *The appropriateness of the ACL that was exceeded is evaluated for error in projection of fish population abundance being the cause of the ACL overage.*

Expectations about future population size are the basis for setting ABC and ACL/ACT in a given year. These expectations are often based on population projections that include assumptions about future recruitment of year classes into the fishery. An assessment update, on the other hand, is informed by observed catches and fishery-independent measures of year class strength. Because the assessment update is based on observed data, it tends to be more stable and less speculative than a projection of future conditions. Additionally, as data accumulate about the relative size of year classes in a fishery, the assessment stabilizes even further. In order to evaluate whether the operational issue that caused an overage was an underestimate of future population abundance in a projection, the ACL that was set based on a projection can be re-evaluated after an assessment update has been done. If the availability of additional information in an assessment update indicates that the ACL could have been set a level such that realized landings would not have produced an overage, then no adjustment to management measures may be needed. A metric for assessing this could be a determination that overfishing did not occur. If abundance estimates remain reasonably consistent, then increased effort will be determined as the cause of the overage such that more restrictive effort controls will be considered. Additionally, the update will provide the basis for “stock condition” as illustrated in Tables 1 and 2 below. This alternative could be adopted in addition to the other ACT alternatives.

In Season Closure Authority

These proactive accountability measures attempt to prevent the ACL from being exceeded by closing down the recreational fishery as soon as data are available that indicate the RHL has been landed. In order for this to be successful, fishing would have to cease as soon as the RHL is achieved. Since the data for a given recreational fishing wave (two month period) are typically not available until several weeks after the wave ends, this is rarely the case. Given the timing constraints and uncertainty in the recreational landings estimates, in-season closure may not be appropriate for these fisheries.

Alternative 2A. No Action / Status Quo. Maintain Current In Season Closure Authority for the Regional Administrator. *The Regional Administrator will monitor recreational*

landings based on the best available data and shall determine if the recreational harvest limit has been met or exceeded. The determination will be based on observed landings and will not utilize projections of future landings. At such time that the available data indicate that the recreational harvest limit has been met or exceeded, the Regional Administrator shall publish notification in the Federal Register advising that, effective on a specific date, the recreational fishery in the EEZ shall be closed for remainder of the calendar year.

Alternative 2B. Early Closure with In Season Projections. *The Regional Administrator will monitor recreational landings based on the best available data and shall consider whether projections of future landings indicate that the recreational harvest limit will be met prior to the close of the fishing season. If the recreational harvest limit is projected to be met prior to the close of the season, the Regional Administrator shall publish notification in the Federal Register advising that, effective on a specific date, the recreational fishery in the EEZ shall be closed for remainder of the calendar year.*

Under this alternative, the RA would be able to use a projection of recreational catch that is at or above the RHL as the basis for closing a recreational fishery. This can result in an earlier closure than under 2A and is more likely than 2A to prevent the ACL from being exceeded. Alternative 2B attempts to capture the difficulty in using only data-in-hand. Recreational landings estimates are grouped in to two month waves. That is, January-February are Wave 1, March-April are Wave 2, etc. Wave data are released approximately 6 weeks after the end of the wave. That is, wave 2 data are usually not available until mid-June, when more than half of wave 3 is already over. Projections would allow the Regional Administrator to determine if it is likely that the recreational harvest limit is exceeded in the current wave. For example, if the data through wave 3 indicate that the recreational landings are approximately 95 percent of the recreational harvest limit, the no action/status quo alternative prevents the Regional Administrator from taking any action. Alternative 2B, on the other hand, would allow the Regional Administrator to determine if it was likely that the data through wave 3 and a projection of the landings through the majority of wave 4 have exceeded the recreational harvest limit. This could prevent an overage from being excessive and prevent further, more restrictive, AMs from being implemented.

Alternative 2C. Eliminate in-season closure authority. Regulatory language regarding monitoring / closure of the recreational fisheries will be removed. This alternative, if chosen, would reflect a preference for addressing recreational overages in subsequent fishing years rather than imposing an early closure.

As described above, there is a delay in receiving the in-season recreational landings estimates. In addition to the uncertainty and the delay, there may be seasonal differences in a fishery that

would result in in-season closures disproportionately impacting anglers in a particular state or region. For example, if the primary two month wave for a particular species is May-June in one state and November-December in another state, year to year closures of the fishery in November-December would disproportionately impact anglers in the second state.

Alternative 2D. In-Season adjustment to bag, size, season. *The Regional Administrator will monitor recreational landings based on the best available data and shall consider whether landings indicate that the recreational harvest limit has been met prior to the close of the fishing season. If the recreational harvest limit is met prior to the close of the season, the Regional Administrator shall, in consultation with the Council, adjust management measures according to pre-arranged terms and conditions.* This alternative would limit rather than close further landing of fish in a recreational fishery that has exceeded its RHL. The Council would set terms and conditions for the adjustment as part of recreational specifications so that the adjustment by the RA would be automatic. For example, the Council may recommend that the bag limit would be halved for the remainder of the season if the RHL has been determined to have been reached.

5.3 Reactive AMs

Reactive AMs are triggered when management controls have failed to prevent a catch limit from being exceeded. As such, there are two components to reactive AMs, 1) the trigger, or what has to occur for an accountability measure to be implemented and (2) the actual AM, or the action that follows if the trigger condition is met (such as a reduction in a future year's bag limit or ACT).

Trigger Conditions

Alternative 3A. No Action / Status Quo for Summer Flounder, Scup, Black Sea Bass. Maintain Phase-In Comparing Three Year Average of Recreational Catch Estimates to Three Year Average of ACL. *The recreational sector ACL will be evaluated based on a 3-year moving average comparison of total catch (landings and dead discards). Both landings and dead discards will be evaluated in determining if the 3-year average recreational sector ACL has been exceeded. The 3-year moving average will be phased in over the first 3 years, beginning with 2012: Total recreational total catch from 2012 will be compared to the 2012 recreational sector ACL; the average total catch from both 2012 and 2013 will be compared to the average of the 2012 and 2013 recreational sector ACLs; the average total catch from 2012, 2013, and 2014 will be compared to the average of the 2012, 2013, and 2014 recreational sector ACLs and, for all subsequent years, the preceding 3-year average recreational total catch will be compared to the preceding 3-year average recreational sector ACL.*

Alternative 3B. Compare Single Year Recreational Catch Estimate to Same Year ACL. *The recreational sector ACL will be evaluated based on an annual comparison of the total catch*

estimate (landings and dead discards). Both landings and dead discard *estimates* will be evaluated in determining if the recreational sector ACL has been exceeded.

This

Alternative 3C. Compare Confidence Interval of Single Year Recreational Catch Estimate to Same Year ACL. *The recreational sector ACL will be evaluated based on an annual comparison of the appropriate confidence interval of the total catch *estimate* (landings and dead discards), where the entire confidence interval (i.e., including the lower confidence limit) must be above the recreational ACL to trigger an AM. Both landings and dead discard *estimates* will be evaluated in determining if the recreational sector ACL has been exceeded.*

Alternative 3C attempts to incorporate statistical theory into management by acknowledging the statistical uncertainty estimates that are included with the MRIP recreational catch estimates. The reason MRIP includes the uncertainty information (expressed as proportional standard error or PSE) is because proper interpretation of the data cannot be done without the accompanying uncertainty estimate. Under the status quo, when a recreational landings estimate of, for example, 1 M lb is provided, it is treated the same as a collection of dealer reports for a commercial fishery would be. The dealer reports can only be in error if there is accidental or intentional misreporting and they are based on transactions that are at least somewhat traceable, and there are processes in place to enforce misreporting. The recreational catch estimate, on the other hand, is calculated from hundreds of reports (angler intercepts include observed and unobserved landings as well as unobserved discards) as well a telephone survey that attempts to capture total angler effort. A confidence interval of +/- one PSE corresponds to a 68% probability that the true value is within the confidence interval. This alternative would allow, when stock conditions are favorable (not overfished, no overfishing) the use of a lower confidence limit for a given confidence interval of catch estimates as a trigger for AMs. If the assumption of normally distributed catches around the point estimate is appropriate, there is equal probability of the true value being above or below that estimate at any given interval. For that reason, the probability that the upper confidence limit is the true value is the same as for the lower confidence limit. This introduces some level of risk and is the reason for the requirement that stock condition be favorable in order to use the confidence interval.

Alternative 3D. Repeat of Recreational Catch Estimate Exceeding ACL. *The recreational sector ACL will be evaluated based on an annual comparison of the total catch *estimate* (landings and dead discards), where the recreational catch estimate must be above the recreational ACL more than once in any four year period to trigger an AM. Both landings and dead discard *estimates* will be evaluated in determining if the recreational sector ACL has been exceeded.*

Alternative 3D attempts to recognize the wide-variability inherent to recreational fisheries. A single year overage may be the result of increased availability, increased access (i.e., few storms), or some other social influence driving anglers to one stock over another. This alternative may work best with an in-season monitoring trigger (described below) to help prevent a more restrictive AM from being necessary.

Management Response

Unlike the no action alternative, the action alternatives contemplated as management responses in this amendment take into account stock condition and the different catch thresholds that may be exceeded. These alternatives are illustrated in Tables 1 – 4 below.

In each management response alternative, stock condition is considered to potentially be in one of three bins relative to the biomass reference points and any rebuilding schedule. In other words the management response could be different if stock biomass is 1) above Bmsy and rebuilt, 2) below Bmsy but above $\frac{1}{2}$ Bmsy and not in rebuilding, or 3) below $\frac{1}{2}$ Bmsy or in rebuilding. Additionally, the management response could be different if the recreational catch is 1) above the recreational ACL (Rec ACL) only, 2) above the Rec ACL and the combined recreational and commercial catch is above ABC, or 3) above the Rec ACL and the combined recreational and commercial catch is above OFL.

The management responses under consideration consist of three tiered components: 1) monitoring, 2) bag, size, season adjustment, or 3) payback of the overage amount performance. These are cumulative responses, such that if a tier 2 or 3 response is triggered, then all the responses below that tier are also invoked. For example if bag, size season adjustment occurs, so does catch monitoring. If the alternative to eliminate in-season closure authority is chosen, it would eliminate monitoring from these management response alternatives such that bag, size, season adjustment would replace monitoring.

In order to differentiate itself from the payback response, the bag, size, season response is not prescriptive in that it would not have to achieve a reduction in catch by the exact overage amount. The adjustment could take into account expected stock condition in the year where the AM would be applied such that improved stock condition would correspond to less severe restrictions in the adjustments than would occur under an assumption of equilibrium conditions as is used currently. If payback and bag/size/season adjustment apply in the same year, then bag/size/season would be adjusted to achieve the ACT as reduced by the payback.

Alternative 4A. No Action / Status Quo. Maintain Pound for Pound Payback for any Overage of the Recreational ACL. ... *the exact amount of the landings overage (in pounds) will be deducted, as soon as possible, from a subsequent single fishing year recreational sector ACT.*

Under this alternative, the condition of the stock and the contribution of a recreational overage to an overage of other catch thresholds (ABC, OFL) are not considered. Nevertheless, because these exist anyway, the diagram used to illustrate the other process alternatives can be adapted for this alternative, as shown in Table 3.

Alternative 4B. Payback when Stock is Overfished or when OFL is Exceeded. ... *the overage (in pounds) will be deducted, as soon as possible, from a subsequent single fishing year recreational sector ACT only if the stock is overfished and/or OFL has been exceeded. When these conditions are not met, AMs will consist of adjustment to bag/size/season and in-season*

monitoring for early closure when the recreational overage caused ABC to be exceeded, or in-season monitoring only when only the Rec ACL has been exceeded.

Under this alternative, the condition of the stock and the contribution of a recreational overage to overages of other catch thresholds (ABC, OFL) are considered as shown in Table 3 under Alt 4B.

Alternative 4C. Payback when Stock is Overfished or when OFL is Exceeded. ... *the overage (in pounds) will be deducted, as soon as possible, from a subsequent single fishing year recreational sector ACT only if the stock is overfished and/or OFL has been exceeded AND B/B_{msy} is <1 . When these conditions are not met, AMs will consist of adjustment to bag/size/season and in-season monitoring for early closure when the recreational overage caused OFL to be exceeded, but $B/B_{msy} >1$, or caused ABC to be exceeded. In-season monitoring only will occur when only the Rec ACL has been exceeded.*

Under this alternative, the condition of the stock and the contribution of a recreational overage to overages of other catch thresholds (ABC, OFL) are considered as shown in Table 3 under Alt 4C.

Alternative 4D. No Payback. ... *If the stock is overfished or in rebuilding, or $B/B_{msy} <1$ and OFL has been exceeded, then adjustments to bag, size, and season will occur. Otherwise monitoring only will occur.*

Under this alternative, the condition of the stock and the contribution of a recreational overage to overages of other catch thresholds (ABC, OFL) are considered as shown in Table 3 under Alt 4D.

Table 3. Process by which reactive accountability measures will be applied conditional on stock status and the threshold that was exceeded.

Stock Condition		Overage Type		
		$C_R > ACL_{Rf}, C_{R+C} < ABC$	$C_R > ACL_{Rf}, C_{R+C} > ABC, C_{R+C} < OFL$	$C_R > ACL_{Rf}, C_{R+C} > OFL$
Alt 4A	$B/Bmsy > 1$	Payback		
	$1 > B/Bmsy > \frac{1}{2}$ and not in rebuilding			
	$\frac{1}{2} > B/Bmsy$ or in rebuilding			
Alt 4B	$B/Bmsy > 1$	$C_R > ACL_{Rf}, C_{R+C} < ABC$	$C_R > ACL_{Rf}, C_{R+C} > ABC, C_{R+C} < OFL$	$C_R > ACL_{Rf}, C_{R+C} > OFL$
		Monitor	Bag, Size Season	Payback
			Monitor	Bag, Size Season
	$1 > B/Bmsy > \frac{1}{2}$ and not in rebuilding	Monitor	Bag, Size Season	Payback
			Monitor	Bag, Size Season
		$\frac{1}{2} > B/Bmsy$ or in rebuilding	Payback	Payback
	Bag, Size Season		Bag, Size Season	Bag, Size Season
	Monitor		Monitor	Monitor

Table 1 Continued. Process by which reactive accountability measures will be applied conditional on stock status and the threshold that was exceeded.

Stock Condition		Overage Type		
		$C_R > ACL_R, C_{R+C} < ABC$	$C_R > ACL_R, C_{R+C} > ABC, C_{R+C} < OFL$	$C_R > ACL_R, C_{R+C} > OFL$
Alt 4C	B/Bmsy > 1	Monitor	Bag, Size Season	Bag, Size Season
			Monitor	Monitor
	1 > B/Bmsy > ½ and not in rebuilding	Monitor	Bag, Size Season	Payback
			Monitor	Bag, Size Season
	½ > B/Bmsy or in rebuilding	Payback	Payback	Payback
		Bag, Size Season	Bag, Size Season	Bag, Size Season
		Monitor	Monitor	Monitor

Stock Condition		Overage Type		
		$C_R > ACL_R, C_{R+C} < ABC$	$C_R > ACL_R, C_{R+C} > ABC, C_{R+C} < OFL$	$C_R > ACL_R, C_{R+C} > OFL$
Alt 4D	B/Bmsy > 1	Monitor	Monitor	Monitor
	Monitor	Monitor		
	½ > B/Bmsy or in rebuilding	Bag, Size Season	Bag, Size Season	Bag, Size Season
		Monitor	Monitor	Monitor

Payback Calculation Alternatives for Summer Flounder, Scup, and Black Sea Bass

These alternatives address the existing recreational payback provision wherein, for summer flounder, scup, and black sea bass a phased in three year average of recreational catch is compared to the three year average of the ACL and any overage of the ACL is paid back pound for pound. In the alternatives contemplated by the Council, the calculation of the overage payback could be conditional on the status of the stock (B/Bmsy). The alternatives are provided in Table 2 where O = overage, C = Catch, _R = Recreational, _C = Commercial, _{R+C} = combined recreational and commercial catch.

The interaction between the management response and payback alternatives is complicated and certain combinations are not compatible (e.g., 4A and 5D). In the event that the Council chooses one of the payback action alternatives, the Council's choice of management response alternative would determine the use or nonuse of a payback where any conflict might occur.

Alternative 5A. No Action / Status Quo. Payback Difference between the Catch Estimate and the Recreational ACL. ... *the exact amount of the landings overage (above the Rec ACL) in pounds will be deducted, ...*

Under this alternative, the condition of the stock and the contribution of a recreational overage to an overage of other catch thresholds (ABC, OFL) are not considered. Nevertheless, because these are a real part of the management milieu, the layout used to illustrate the other process alternatives can be adapted for this alternative, as shown in Table 1.

Alternative 5B. Payback ACL Overage only When Overfished.

Under this alternative, the condition of the stock and the contribution of a recreational overage to overages of other catch thresholds (ABC, OFL) are considered as shown in Table 2 in panel Alt 5B.

Alternative 5C. Payback ACL Overage only When Overfished/Overfishing.

Under this alternative, the condition of the stock and the contribution of a recreational overage to overages of other catch thresholds (ABC, OFL) are considered as shown in Table 2 in panel Alt 5C.

Alternative 5D. Scaled Payback of the ACL Overage.

Under this alternative, the condition of the stock (B/B_{msy}) scales the payback amount. If $B/B_{msy} \geq 1$, no payback is needed. If $1 \geq B/B_{msy} \geq \frac{1}{2}$, then the payback is the product of the overage and B/B_{msy} . If $B/B_{msy} \leq \frac{1}{2}$, then the payback is pound for pound.

Alternative 5E. No Payback.

This alternative would eliminate paybacks of overages. The basis for this is the general absence of biological processes and conditions considered in administering paybacks.

Table 4. Process by which the overage payback will be calculated conditional on stock status and the threshold that was exceeded.

		$C_R > ACL_R > ABC$	$C_R > ACL_R, C_{R+C} > ABC$	$C_R > ACL_R, C_{R+C} > OFL$
Alt 5A	$B/B_{msy} > 1$	$C_R - ACL_R$	$C_R - ACL_R$	$C_R - ACL_R$
	$1 > B/B_{msy} > 1/2$	$C_R - ACL_R$	$C_R - ACL_R$	$C_R - ACL_R$
	$1/2 > B/B_{msy}$	$C_R - ACL_R$	$C_R - ACL_R$	$C_R - ACL_R$

		$C_R > ACL_R > ABC$	$C_R > ACL_R, C_{R+C} > ABC$	$C_R > ACL_R, C_{R+C} > OFL$
Alt 5B	$B/B_{msy} > 1$	0	0	$O_R/O_{R+C} * C_{R+C} - OFL$
	$1 > B/B_{msy} > 1/2$	0	$O_R/O_{R+C} * C_{R+C} - ABC$	$O_R/O_{R+C} * C_{R+C} - ABC$
	$1/2 > B/B_{msy}$	$C_R - ACL_R$	$C_R - ACL_R$	$C_R - ACL_R$

		$C_R > ACL_R > ABC$	$C_R > ACL_R, C_{R+C} > ABC$	$C_R > ACL_R, C_{R+C} > OFL$
Alt 5C	$B/B_{msy} > 1$	0	0	0
	$1 > B/B_{msy} > 1/2$	0	0	$O_R/O_{R+C} * C_{R+C} - OFL$
	$1/2 > B/B_{msy}$	$C_R - ACL_R$	$C_R - ACL_R$	$C_R - ACL_R$

6.0 DESCRIPTION OF THE AFFECTED ENVIRONMENT AND FISHERIES

This section serves to identify and describe the *valued ecosystem components* (VECs; Beanlands and Duinker 1984) that are likely to be directly or indirectly affected by the actions proposed in this document. These VECs comprise the affected environment within which the proposed actions will take place. Following the guidance provided by the Council on Environmental Quality (CEQ 1997), the VECs are identified and described here as a means of establishing a baseline for the impact analysis that will be presented in the subsequent document section (section 7.0 Analysis of Impacts). Impacts of the proposed actions on the VECs will also be determined from a cumulative effects perspective, which is in the context of other past, present, and reasonably foreseeable future actions.

Identification of the Selected Valued Ecosystem Components

As indicated in CEQ (1997), one of the fundamental principles of cumulative effects analysis is that "... the list of environmental effects must focus on those that are truly meaningful." As such,

the range of VECs described in this section is limited to those for which a reasonable likelihood of meaningful impacts is expected. These VECs are listed below.

- 1) Managed and non-target species
- 2) Habitat including EFH
- 3) Endangered and protected resources
- 4) Human Communities

The managed resources VEC includes Atlantic mackerel, Atlantic bluefish, summer flounder, scup, and black sea bass which is managed under the Atlantic Mackerel, Squid, and Butterfish FMP, Bluefish FMP, and Summer Flounder, Scup, and Black Sea Bass FMP. Changes to the FMP, such as those proposed in this Omnibus Amendment, have the potential to directly affect the condition of the managed resources. These impacts may occur when management actions either reduce or expand the directed harvest of managed resources or bycatch of these species.

Similarly, management actions that would change the distribution and/or magnitude of fishing effort for the managed resources may indirectly affect the non-target species VEC (species incidentally captured as a result of fishing activities for the managed resources), the habitat VEC (especially habitats vulnerable to activities related to directed fishing for the managed resource), and the protected resources VEC (especially those species with a history of encounters with the managed resources). The human communities VEC could be affected directly or indirectly through a variety of complex economic and social relationships associated with managing these species.

6.1 Description of the Managed Resources

For the recreational fisheries addressed in this amendment AMs were established through the Omnibus ACL/AM Amendment (MAFMC 2011). Recreational fishery performance in 2012 is the first to be subjected to AMs under that amendment. There are differences in how the AMs are administered through the different FMPs as described below and associated values are provided in Table 5.

6.1.1 Existing Accountability Measures

Atlantic Mackerel

For mackerel, there is a single ACL that is equal to the U.S. ABC (Total ABC – Canadian allocation). The recreational catch allocation is 6.2% of the ACL and the Rec ACT is a further reduction based on management uncertainty. Components of the ACT include the RHL, RSA, and dead discards. In order for AMs to be triggered, the entire ACL must be exceeded. If the ACL is exceeded and recreational landings are responsible for the overage, then landings in excess of the RHL are deducted from the RHL in the following year, as a single-year adjustment. In 2012, the recreational catch was approximately 1.735 M lb compared to Rec ACT = 5.386 M lb. Combined recreational and commercial catch was approximately 13.855 M lb compared to ACL = 96.521 M lb. No AMs will be applied based on 2012 recreational fishery performance.

Bluefish

For bluefish, there is a single ACL that is equal to ABC. The recreational catch allocation is 83% of the ACL after a further reduction based on management uncertainty. Components of the ACT include the RHL, RSA, and dead discards. In order for AMs to be triggered, the entire ACL must be exceeded. An important difference for the bluefish fishery is that after the initial allocation of 83% of the ACL to the recreational fishery, a transfer provision allows for some of the recreational catch to be moved to the commercial fishery if the recreational fishery is not expected to catch the entire 83%. Therefore, if the ACL is exceeded and the recreational fishery caused the overage, and a transfer occurred, then the amount transferred in a subsequent year can be reduced by the overage amount. If there was no transfer, then the overage is deducted from a subsequent year Rec ACT. In 2012, the recreational catch was approximately 14.244 M lb compared to Rec ACT = 26.597 M lb. Combined recreational and commercial catch was approximately 18.649 M lb compared to ACL = 32.045 M lb. No AMs will be applied based on 2012 recreational fishery performance.

Summer Flounder, Scup, and Black Sea Bass

For these species, separate commercial and recreational ACLs are specified based on a percentage of the ABC. The recreational sector ACL is evaluated using a comparison of the 3-year moving average of both recreational catch and rec ACLs. If the 3-year average rec ACL has been exceeded because of rec landings, then the exact poundage of the landings overage is deducted from a subsequent single fishing year recreational sector ACT.

Summer Flounder

In 2012, the recreational catch was approximately 7.303 M lb compared to Rec ACL = 11.580 M lb. Combined recreational and commercial catch was approximately 13.895 M lb compared to ABC = 25.580 M lb. No AMs will be applied based on 2012 recreational fishery performance.

Scup

In 2012, the recreational catch was approximately 4.290 M lb compared to Rec ACL = 8.990 M lb. Combined recreational and commercial catch was approximately 19.213 M lb compared to ABC = 40.880 M lb. No AMs will be applied based on 2012 recreational fishery performance.

Black Sea Bass

In 2012, the recreational catch was approximately 3.623 M lb compared to Rec ACL = 2.520 M lb resulting in a recreational ACL overage of 1.103 M lb. Combined recreational and commercial catch was approximately 5.585 M lb compared to ABC = 4.500 M lb resulting in an ABC overage of 1.085 M lb. Under the existing FMP, the black sea bass ACL overage will trigger a payback of approximately 1.103 M lb which would be deducted from the 2014 Rec ACT. The current proposed Rec ACT is 2.90 M lb. The AM would reduce the ACT to 1.8 M lb.

Table 5. Catch levels and thresholds in 2012 associated with the five recreational fisheries addressed in this amendment. All values are in M lb.

	Atl. Mack	Bluefish	Sum. Flounder	Scup	Sea Bass
Rec Landings	1.661	11.184	6.972	4.057	3.071
Rec Discards	0.074	3.060	0.331	0.232	0.552
Rec Catch	1.735	14.244	7.303	4.290	3.623
Rec ACL*	5.386	26.597	11.580	8.990	2.520
Rec ACL Overage	-3.651	-12.353	-4.277	-4.700	1.103
Rec +Com Catch	13.855	18.649	21.197	19.213	5.585
ABC	96.521	32.045	25.580	40.880	4.500
ABC Overage	-82.666	-13.396	-4.383	-21.667	1.085
OFL	N/A	38.627	29.813	47.796	7.000
OFL Overage		-19.978	-8.616	-28.583	-1.415

6.1.2 Stock Status

Reports on “Stock Status,” including annual assessment and reference point update reports, Stock Assessment Workshop (SAW) reports, Stock Assessment Review Committee (SARC) panelist reports, and peer-review panelist reports are available online at the NEFSC website: <http://www.nefsc.noaa.gov>.

Table 6 summarizes information from the 2012 fourth quarter NMFS status of the stocks report to Congress. Based on the second quarter update, none of the managed resources have overfishing occurring. Except for summer flounder and bluefish, all of the managed resources have stock biomass (either total or spawning stock biomass) above biomass target (B_{MSY}). Summer flounder is expected to be rebuilt in 2013 and bluefish is not in rebuilding.

6.1.3 Description of Stock Characteristics, and Ecological Relationships

EFH Source Documents, which include details on stock characteristics and ecological relationships, are available at the following website: <http://www.nefsc.noaa.gov/nefsc/habitat/efh/>.

Table 6. Stock Status based on NMFS second quarter Status of Stocks Report to Congress.

FMP	Stock	Overfishing? (Is Fishing Mortality above Threshold?)	Overfished? (Is Biomass below Threshold?)	Management Action Required	Rebuilding Program Progress	B/Bmsy or B/Bmsy proxy
Atlantic Mackerel, Squid and Butterfish	Atlantic mackerel	No	No	N/A	N/A	3.57
Bluefish	Bluefish	No	No	N/A	N/A	0.90
Summer Flounder, Scup and Black Sea Bass	Black sea bass	No	No	N/A	N/A	1.02
Summer Flounder, Scup and Black Sea Bass	Scup	No	No	N/A	N/A	2.07
Summer Flounder, Scup and Black Sea Bass	Summer flounder	No	No - Rebuilding	Continue Rebuilding	Year 13 of 13-year plan	0.95

6.2 Non-target Species

Non-target species includes species either landed or discarded (bycatch) as part of fisheries activities used to harvest these recreational species. The term "bycatch," as defined by the MSA, means fish that are harvested in a fishery but that are not sold or kept for personal use. Bycatch includes the discard of whole fish at sea or elsewhere, including economic and regulatory discards, and fishing mortality due to an encounter with fishing gear that does not result in capture of fish (i.e., unobserved fishing mortality). Bycatch does not include fish released alive under a recreational catch-and-release fishery management program.

6.3 Habitat (Including Essential Fish Habitat)

The use of recreational hook and line gear has minimal impacts on marine habitat. Recreational fisheries can be a source of debris in the marine environment (O'Hara et al. 1988). Although recreational fishing affects marine species, nothing in this document would modify the manner in which the Council's recreational fisheries are prosecuted.

6.4 Endangered and Protected Resources

Recreational fisheries have limited direct interaction with ESA-listed or MMPA-protected species. Anecdotal information suggests recreational anglers can potentially hook Atlantic sturgeon while fishing for striped bass, but this is likely an infrequent occurrence that does not significantly affect their survival (Damon-Randall, NMFS, Protected Resources Division, pers. comm.).

6.5 Human Communities and Economic Environment

6.5.1 Description of the Fisheries

Detailed descriptions of the economic aspects of the recreational fisheries for the managed resources, as well as the management regimes are available in the respective FMPs.

Bluefish, summer flounder, scup, and black sea bass continue to be important components of the recreational fishery, with 2012 recreational landings of about 11.184 M lb, 6.972 M lb, 4.057 million lb, and 3.352 M lb, respectively. Atlantic mackerel is a less frequently landed recreational species, with 2012 landings of 1.661 million lb. In 2012, total recreational angler trips on the Atlantic coast were about 37.966 million, with about 25.599 million of those trips taken in the Northeast (i.e., Maine through North Carolina; Table 11).

Angler expenditures in the Northeast Region by state and mode for marine fishing were obtained from Gentner and Steinback (2008). These expenditure data were produced from extensive surveys of marine recreational fishermen in the Northeast Region in 2006 (Table 12). The surveys were conducted as part of the Marine Recreational Fisheries Statistical Survey (MRFSS). Average nominal fishing trip expenditures were provided for each state and mode of

fishing (i.e., private boat, party/charter, and shore) in the Northeast region in 2006. Trip-related expenditure categories shown in the report included private and public transportation, auto rentals, grocery store purchases, restaurants, lodging, boat fuel, boat and equipment rentals, party/charter fees, party/charter crew tips, catch processing, access and parking, bait, ice, tackle used on trip, tournament fees and gifts/souvenirs. In addition to trip-related expenditures, Gentner and Steinback (2008) also estimated anglers' expenditures for semi-durable items (e.g., rods, reels, lines, clothing, etc.) and durable goods (e.g., motor boats, vehicles, etc.).

Table 7. Average nominal daily trip expenditures by recreational fishermen in the Northeast region by mode in 2006.

Expenditures	\$		
	Party/Charter	Private/Rental	Shore
Private transportation	13.88	11.03	12.94
Public transportation	0.26	0.07	0.40
Auto rental	0.27	0.02	0.10
Food from grocery stores	7.40	4.92	7.33
Food from restaurants	8.70	3.42	9.28
Lodging	10.0	2.64	14.90
Boat fuel	0	9.54	0
Boat or equipment rental	0.05	0.19	0.03
Charter fees	57.76	0	0
Charter crew tips	3.0	0	0
Catch processing	0.02	0	0
Access and parking	0.44	1.11	1.32
Bait	0.31	3.42	3.25
Ice	0.39	0.59	0.39
Tackle used on trip	1.87	2.04	3.98
Tournament fees	1.10	0.04	0.02
Gifts and souvenirs	1.67	0.10	1.45
Total	107.13	39.14	55.39

7.0 ENVIRONMENTAL CONSEQUENCES AND REGULATORY ECONOMIC EVALUATION OF ALTERNATIVES

This section focuses on potential impacts to managed resources and non-target species, habitat (including EFH), protected resources, and human communities. The actions proposed in this amendment are largely administrative and have limited direct impacts on the VECs. This amendment will modify measures in the FMPs that address accountability in recreational fishery performance. Indirect impacts that are anticipated are described in the sections that follow. Given the insignificant interaction between these recreational fisheries and habitat and protected resources, no significant impacts are expected for these VECs for any alternative.

An evaluation of indirect impacts of the alternatives considers the potential for increased or decreased recreational catches and recreational fishing opportunities relative to no action being taken. For example, a more restrictive alternative to the current ACT specification process (i.e., Alt 1C) would reduce future catch levels and fishing opportunities. Alternatives that would reduce pending payback of observed catch overages (i.e., Alts 4A and 5A) would tend to increase catch opportunity relative to no action being taken. Because, a reduction in fishing opportunity is a pending future event, that is a baseline condition for the VECs. Any alternative that would maintain the current or reasonably foreseeable future condition of a VEC is considered to result in a null impact. Black sea bass is the only stock for which an AM is expected in the near future. If no action is taken, the black sea bass fishery will be expected to have a greatly reduced ACT in 2014 based on the 2012 ACL overage (See Section 6.1.1). If an alternative that would prevent or reduce the payback is chosen, the impacts on the VECs (the black sea bass stock and the socio-economic aspects of the recreational black sea bass fishery) would be relative to the future condition of those VECs if no action were to be taken.

7.1 ACT Alternatives

The ACT alternatives expected to impact the managed and non-target species are Alternatives 1C and 1D. Alternatives 1A and 1B would maintain current constraints on ACT specification. Alternative 1B would require that the Monitoring Committees consider a reduction from ACL based on uncertainty in the recreational catch estimates, while 1C would prescribe that reduction. Alternative 1C is expected to result in reduced ACTs and therefore reduced catches and fishing opportunities. Reduced catches are associated with positive impacts on managed and non-target species through reduced mortality and negative impacts on human communities through revenue losses associated with the recreational fishing economy. Currently ACTs are reduced from ACL for Atlantic mackerel and black sea bass by 10%, where that percentage is somewhat arbitrary for mackerel and equivalent to the proportional standard error for black sea bass. Fishery underperformance (failure to achieve catch targets) obviated reductions from ACL for summer flounder, scup and bluefish (ACT = ACL). Under 1C, the discretionary use of a reduction from ACL to ACT would be removed. This could result in the imposition of bag, size and season limits that would otherwise be unnecessary.

Alternative 1D could increase or decrease catch levels and fishing opportunity depending on the results of the ACL/ACT evaluation. If the ACL/ACT is determined to have been underestimated in the projection such that any potential AM is reduced or eliminated, then catch levels and fishing opportunities would be greater than if the exercise was not conducted. If, however, an evaluation of ACL/ACT indicates that effort increases was the cause of the overage, then more restrictive measures could be put in place and catches and fishing opportunities could decrease.

7.2 In Season Closure Alternatives

The in-season closure alternatives that could impact the VECs include 2B and 2C. By allowing the RA to close a recreational fishery based on a projection and, therefore, before the RHL has been achieved, Alternative 2B would tend to decrease catches and fishing opportunity in that year relative to no action being taken. Conversely, 2C which would eliminate In Season Authority would tend to allow catches to continue after the RHL is potentially achieved. Assuming that there is biological justification in closing the fishery as triggered by landing (or projecting to land) the RHL, catches above that level would tend to negatively affect managed and non-target species. Because data indicating that the RHL has been exceeded are not available for several weeks after that event, closure of the fishery would seldom cap landings exactly at the RHL. For this reason, 2B, which could close the fishery before 2A, is associated with positive to null impacts on managed and non-target species. Null impacts for this alternative may result when circumstances cause the projections to fail to close the fishery before the RHL is caught making it effectively equivalent to 2A.

7.3 Trigger Condition Alternatives

Among the trigger condition action alternatives, 3D is the only one associated with positive impacts to human communities but null impacts to the other VECs. Alternatives 3A, 3B, and 3C are associated with null impacts throughout. This is because, at least in the foreseeable future (2014), Alternative 3D would obviate the pending payback of the 2012 black sea bass overage. Alternative 3B would only affect the summer flounder, scup and black sea bass fisheries in that a single year comparison is already in place for Atlantic mackerel and bluefish. Additionally, the three year averaging under 3A is being phased in so that for 2014, 3A and 3B are essentially equivalent.

The merits of the different approaches are debatable and are related to whether paybacks are being invoked compared to other AMs such as bag, size, and season adjustments. There are theoretical events that could make a single year comparison more appealing than a three year average. For example, if an overage is such that it causes the three year average (3A) to be above the comparison threshold (e.g., ACL) for more than one year, then the AMs could be triggered over a longer period than if a single year comparison (3B) is made. However, if paybacks are being invoked, the magnitude of the overage may be such that the catch reduction is much greater in a single year (3B) than spread over a number of years (3A). As acknowledged in Section 5, there is some increased risk associated with Alternative 3C, but that is mitigated by the requirement that stock conditions be “favorable” in order to invoke the use of a confidence

interval. In the near term, 3C would not prevent the triggering of AMs for the 2012 black sea bass overage. This alternative is more likely to prevent continual adjustments to recreational management measures if catch estimates are reasonably close to but occasionally exceed catch thresholds. It is less likely to be different from the status quo when catches exceed the threshold by a large amount.

7.4 Management Response Alternatives

Among the management response alternatives, 4B-4C are all associated with positive impacts on human communities and null impacts otherwise. The positive impacts to human communities are related to the prevention of punitive paybacks in both 2014, in real terms, or any future year, theoretically. It could be argued that the lower likelihood of paybacks under these alternatives is associated with negative impacts to the managed and non-target species, however these alternatives are intended to scale the AMs to stock conditions such that long term negative impacts are avoided. Alternative 4D would do this without any paybacks and is associated with the greatest benefit to human communities, however, it also has the greatest potential to delay bag, size, and season adjustments to the point where a stock could be fished to very close to an overfished condition. For that reason it is associated with negative impacts to the managed and non-target species.

Paybacks have limited biological relevance in that once fish from a given year class have been removed, no amount of future payback is going to replace them. Nevertheless, when a fish population has been significantly reduced by fishing mortality such that a sustained period of lower catches is needed to rebuild the stock, then reduced catches should contribute to stock expansion. If the stated management goal is to grow the stock, which can only occur over time, catch targets would be set that would accomplish that goal rather than use of overage paybacks. Additionally, because of the cascading nature of these alternatives, a payback on top of bag, size, and season adjustment would by definition be punitive since the other measures would be developed to achieve target catch.

Bag, size, and season limits are derived as a means of achieving a desired catch target. The process of adjusting these effort controls should be informed by changes in availability and abundance, however, availability is rarely predictable. By adjusting bag, size, and season limits in light of observed fishery behavior and estimated stock condition relative to these limits, these AMs may be more effective and practical than paybacks. The impacts associated with specific bag, size, season adjustments are analyzed as part of the recreational specifications package.

Black Sea Bass in 2014

If the ACT for black sea bass in 2014 is reduced by the payback as under 4A, more restrictive limits (i.e., lower possession limits, higher minimum size limits, and/or shorter open seasons) will be required. It is possible that alternative 4A will decrease recreational satisfaction for the black sea bass recreational fishery, relative to 2012. However, it is likely that anglers will likely be able to keep some of the fish they catch and could also engage in catch and release fishing. Anglers that choose to reduce their black sea bass effort in 2014 are likely to transfer this effort

to alternative species (i.e., summer flounder, scup, spot, bluefish, weakfish, striped bass, tautog, pelagics, etc.), resulting in less change in overall fishing effort. However, recreational measures for many of the alternative species in the Northeast are becoming more restrictive each year, resulting in fewer substitute landing opportunities, particularly for anglers fishing aboard headboats where passengers are primarily limited to bottom fishing.

Steinback et al. (2009) estimate that only up to about 28% of marine anglers fishing in the Northeast US fish to bring home fish to eat. The remaining 72% of anglers were found to fish purely for recreational purposes and therefore likely place little importance on being able to keep fish. Findings of this study generally concur with previous studies that found non-catch reasons for participating in marine recreational fishing were rated much higher than keeping fish for food. In combination with alternative target species available to anglers, the findings of the Steinback et al. (2009) and many other peer-reviewed studies suggest that at least some of the potentially affected anglers would not reduce their effort when faced with the proposed landings restrictions.

7.5 Payback Calculation Alternatives

Similar to the management response alternatives, the action alternatives (5B-5D) are associated with increased benefits to human communities with the greatest impacts coming from alternative 5D which would eliminate paybacks.

Table 8. Indirect Impacts on Valued Ecosystem Components

ACT Alternatives		Managed and Non-Target Species	Habitat Including EFH	Protected Resources	Human Communities
1A	No Action/Status Quo	0	0	0	0
1B	Mandatory Review ACT = ACL – Uncert.	0	0	0	0
1C	Mandatory Setting ACT = ACL – Uncert.	+	0	0	0
1D	ACL Post Hoc Evaluation	0	0	0	+
In-Season Closure Alternatives					
2A	No Action/Status Quo	0	0	0	0
2B	Early Closure with In Season Projections	+/0	0	0	-
2C	Eliminate In-Season Closure Authority	-/0	0	0	+/-
Trigger Alternatives					
3A	No Action / Status Quo	0	0	0	0
3B	Single Year Comparison	0	0	0	0
3C	Confidence Interval	0	0	0	0
3D	Repeat Overage	0	0	0	0
Management Response Alternatives					
4A	No Action / Status Quo	0	0	0	0
4B	Payback when $B < \frac{1}{2} B_{msy}$ or $F > F_{msy}$	0	0	0	+
4C	Payback when $B < \frac{1}{2} B_{msy}$ or $F > F_{msy}$ and $B < B_{msy}$	0	0	0	+
4D	No Payback	0	0	0	++
Payback Calculation Alternatives					
5A	No Action / Status Quo	0	0	0	0
5B	Payback ACL Overage When Overfished	0	0	0	+
5C	Payback ACL Overage When Overfished/Overfishing	0	0	0	+
5D	No Payback	0	0	0	++

7.6 Magnitude and Significance of Cumulative Effects

Under Development

8.0 APPLICABLE LAWS

8.1 Magnuson-Stevens Fishery Conservation and Management Act (MSA) and National Standards

Section 301 of the MSA requires that FMPs contain conservation and management measures that are consistent with the ten National Standards. The most recent FMP amendments for the managed resources address how the management actions implemented comply with the National Standards. First and foremost, the Council continues to meet the obligations of National Standard 1 by adopting and implementing conservation and management measures that will continue to prevent overfishing, while achieving, on a continuing basis, the optimum yield for the managed resources and the U.S. fishing industry.

8.2 NEPA (FONSI)

National Oceanic and Atmospheric Administration Administrative Order 216-6 (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality regulations at 40 C.F.R. §1508.27 state that the significance of an action should be analyzed both in terms of “context” and “intensity.” Each criterion listed below is relevant to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. These include:

- 1) Can the proposed action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?

- 2) Can the proposed action reasonably be expected to jeopardize the sustainability of any non-target species?

- 3) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in FMPs?

- 4) Can the proposed action be reasonably expected to have a substantial adverse impact on public health or safety?

- 5) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species?

- 6) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

- 7) Are significant social or economic impacts interrelated with natural or physical environmental effects?

- 8) Are the effects on the quality of the human environment likely to be highly controversial?
- 9) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas?
- 10) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?
- 11) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?
- 12) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?
- 13) Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?
- 14) Is the proposed action likely to establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration?
- 15) Can the proposed action reasonably be expected to threaten a violation of federal, State, or local law or requirements imposed for the protection of the environment?
- 16) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for this Omnibus Amendment document, it is hereby determined that the proposed actions in this specification package will not significantly impact the quality of the human environment as described above and in the Environmental Assessment. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.

Regional Administrator for NERO, NMFS, NOAA

Date

8.3 Endangered Species Act

Sections 6.3 and 7.0 should be referenced for an assessment of the impacts of the proposed action on endangered species and protected resources. None of the actions proposed in this document are expected to alter fishing methods or activities. Therefore,

this action is not expected to affect proposed, threatened, or endangered species or critical habitat in any manner not considered in previous consultations on the fisheries.

8.4 Marine Mammal Protection Act

Sections 6.3 and 7.0 should be referenced for an assessment of the impacts of the proposed action on marine mammals. None of the actions proposed in this document are expected to alter fishing methods or activities. Therefore, this action is not expected to affect marine mammals or critical habitat in any manner not considered in previous consultations on the fisheries.

8.5 Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) of 1972, as amended, provides measures for ensuring stability of productive fishery habitat while striving to balance development pressures with social, economic, cultural, and other impacts on the coastal zone. It is recognized that responsible management of both coastal zones and fish stocks must involve mutually supportive goals. The Council has developed this document and will submit it to NMFS; NMFS must determine whether this action is consistent to the maximum extent practicable with the CZM programs for each state (Maine through North Carolina).

8.6 Administrative Procedure Act

Sections 551-553 of the Federal Administrative Procedure Act establish procedural requirements applicable to informal rulemaking by federal agencies. The purpose is to ensure public access to the federal rulemaking process and to give the public notice and opportunity to comment before the agency promulgates new regulations.

The Administrative Procedure Act requires solicitation and review of public comments on actions taken in the development of an FMP and subsequent FMP amendment and framework adjustments. Development of this document provided many opportunities for public review, input, and access to the rulemaking process. This proposed action and the document were developed through a multi-stage process that was open to review by affected members of the public. The public had the opportunity to review and comment on this action at:

8.7 Section 515 (Data Quality Act)

Utility of Information Product

The action contained within this document was developed to be consistent with the FMP, MSA, and other applicable laws, through a multi-stage process that was open to review by affected members of the public. The public had the opportunity to review and comment on management measures during the same meetings listed above in section 8.6. The public will have further opportunity to comment once NMFS publishes a request for comments on the proposed regulations in the FR.

Integrity of Information Product

The information product meets the standards for integrity under the following types of documents: Other/Discussion (e.g., Confidentiality of Statistics of the MSA; NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics; 50 CFR 229.11, Confidentiality of information collected under the Marine Mammal Protection Act).

Objectivity of Information Product

The category of information product that applies here is “Natural Resource Plans.” This section (section 8.0) describes how this document was developed to be consistent with any applicable laws, including MSA with any of the applicable National Standards. The analyses used to develop the alternatives (i.e., policy choices) are based upon the best scientific information available and the most up to date information is used to develop the EA which evaluates the impacts of those alternatives (see sections 5.0 and 7.0 of this document for additional details). The specialists who worked with these core data sets and population assessment models are familiar with the most recent analytical techniques and are familiar with the available data and information relevant to the Atlantic mackerel, butterfish, Atlantic bluefish, spiny dogfish, summer flounder, scup, black sea bass, Atlantic surfclam, ocean quahog, and tilefish fisheries.

The review process for this document involves MAFMC, NEFSC, NERO, and NMFS headquarters. The NEFSC technical review is conducted by senior level scientists with specialties in fisheries ecology, population dynamics and biology, as well as economics and social anthropology. The MAFMC review process involves public meetings at which affected stakeholders have the opportunity to comments on proposed management measures. Review by NERO is conducted by those with expertise in fisheries management and policy, habitat conservation, protected resources, and compliance with the applicable law. Final approval of the Omnibus Amendment and clearance of the rule is conducted by staff at NOAA Fisheries Headquarters, the Department of Commerce, and the U.S. Office of Management and Budget.

8.8 Paperwork Reduction Act (PRA)

The purpose of the PRA is to control and, to the extent possible, minimize the paperwork burden for individuals, small businesses, nonprofit institutions, and other persons resulting from the collection of information by or for the Federal Government. The preferred alternatives currently associated with this action do not propose to modify any existing collections, or to add any new collections; therefore, no review under the PRA is necessary.

8.9 Impacts of the Plan Relative to Federalism/EO 13132

This document does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order (EO) 13132.

8.10 Environmental Justice/EO 12898

This EO provides that “each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.” EO 12898 directs each Federal agency to analyze the environmental effects, including human health, economic, and social effects of Federal actions on minority populations, low-income populations, and Indian tribes, when such analysis is required by NEPA. Agencies are further directed to “identify potential effects and mitigation measures in consultation with affected communities, and improve the accessibility of meetings, crucial documents, and notices.” The action contained within this document are not expected to affect participation in the Atlantic mackerel, butterfish, Atlantic bluefish, spiny dogfish, summer flounder, scup, black sea bass, Atlantic surfclam, ocean quahog, and tilefish fisheries. Since the proposed action represents no changes relative to the current levels of participation in these fisheries, no negative economic or social effects in the context of EO 12898 are anticipated as a result. Therefore, the proposed action is not expected to cause disproportionately high and adverse human health, environmental or economic effects on minority populations, low-income populations, or Indian tribes.

8.10 Regulatory Impact Review/Initial Regulatory Flexibility Analysis

A Regulatory Impact Review (RIR) is required by NMFS for all regulatory actions that either implement a new FMP or significantly amend an existing FMP. An RIR is required by NMFS for all regulatory actions that are part of the “public interest.” The RIR is a required component of the process of preparing and reviewing FMPs or amendments and provides a comprehensive review of the economic impacts associated with proposed regulatory actions. The RIR addresses many concerns posed by the regulatory philosophy and principles of E.O. 12866. The RIR serves as the basis for assessing whether or not any proposed regulation is a "significant regulatory action" under criteria specified by E.O. 12866. The RIR must provide the following information: (1) A comprehensive review of the level and incidence of economic impacts associated with a proposed regulatory action or actions; (2) a review of the problems and policy objectives prompting the regulatory proposals; and (3) an evaluation of the major

alternatives that could be used to meet these objectives. In addition, an RIR must ensure that the regulatory agency systematically and comprehensively consider all available alternatives such that the public welfare can be enhanced in the most efficient and cost effective manner. Under the Regulatory Flexibility Act (RFA) of 1980, as amended by Public Law 104-121, new FMPs or amendments also require an assessment of whether or not proposed regulations would have a significant economic impact on a substantial number of small business entities. The primary purposes of the RFA are to relieve small businesses, small organizations, and small Government agencies from burdensome regulations and record-keeping requirements, to the extent possible.

This section of the Omnibus Amendment provides an assessment and discussion of the potential economic impacts, as required of an RIR and the RFA, of various proposed actions consistent with the purpose of this action.

8.10.1 Basis and Purpose for the Action

The legal basis for this Omnibus Amendment can be found in the MSA (16 U.S.C. §1853(a)(15)), which includes requirements for ACLs and AMs and other provisions regarding preventing and ending overfishing. The purpose of this action is to evaluate and implement AMs that consider the biological cost of any catch overage and that recognize the generally uncertain nature of recreational fishery catch estimates and recreational management controls. The need for this action is to consider other accountability measures in addition to the current pound-for-pound reductions.

8.10 Regulatory Flexibility Analysis (RFA/IRFA)

8.10.2 Evaluation of E.O 12866 Significance

8.10.2.1 Description of the Management Objectives

A complete description of the purpose and need and objectives of this proposed rule is found under section 4.2. This action is taken under the authority of the MSA and regulations at 50 CFR part 648.

8.10.2.2 Description of the Fishery

A description of the managed resources fisheries is presented in section 6.0. Detailed descriptions of the economic aspects of the commercial and recreational fisheries for the managed resources, descriptions of important ports and communities, as well as the management regimes are available in the respective FMPs (section 4.3).

8.10.2.3 A Statement of the Problem

A statement of the problem for resolution is presented under section 1.0. The purpose and need for this amendment is found in section 4.2.

8.10.2.4 A Description of Each Alternative

A full description of the alternatives analyzed in this section is presented in sections 5.0.

Description of the Affected Entities

A description of the affected entities is provided in section 8.10.3.1 of the IRFA. As noted in earlier sections (see section 7.1 to 7.4), this action will amend the established accountability measures for recreational fisheries. Thus, the scope of the impacts associated with this Omnibus Amendment is atypical for an FMP amendment. Most FMP amendments focus on changes to fishing regulations in order to effect a direct change in either fishing effort or fishing practices, and these regulatory changes generally result in direct effect on fishing vessel operations (by modifying where, when, and/or how fishing may take place). These types of changes to fishing vessel operations almost always have socio-economic impacts on the participants of the subject fisheries.

However, as the focus of this amendment is on establishing administrative processes consistent with NS1, and there are therefore no direct impacts. Therefore, although this Omnibus Amendment addresses all fisheries operating for the managed resources, the actual economic impacts associated with this amendment are considered to be negligible. More details on these fisheries are available in section 6.5.

8.10.2.5 Determination of Significance under E.O. 12866

E.O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be significant. A “significant regulatory action” is one that is likely to: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, safety, or state, local, or tribal Governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order. A regulatory program is “economically significant” if it is likely to result in the effects described above. The RIR is designed to provide information to determine whether the proposed regulation is likely to be “economically significant.”

A complete evaluation of the expected economic effects of the various alternatives, including cumulative impacts, is presented throughout sections 7.1-7.4. The proposed action would establish a process for addressing scientific and management uncertainty when setting catch limits for the upcoming fishing year(s) and establish a comprehensive system of accountability for catch (including both landings and discards) relative to those limits, for each of the managed resources. These actions would not affect the conservation objectives associated with each of the managed fisheries. Thus, while having no immediate direct economic impact, these actions will provide greater assurance

that the current and future flow of commercial and recreational economic benefits from the managed fisheries will be maintained.

The MAFMC has determined that, given the information presented above, there would no substantive change in net benefits derived from the implementation of the proposed Omnibus Amendment. Because none of the factors defining “significant regulatory action” are triggered by this proposed action, the action has been determined to be not significant for purposes of E.O. 12866.

8.10.3 Initial Regulatory flexibility Analysis

The objective of the RFA is to require consideration of the capacity of regulated small entities affected by regulations to bear the direct and indirect costs of regulation. If an action would have a significant impact on a substantial number of small entities, an Initial Regulatory Flexibility Analysis must be prepared to identify the need for action, alternatives, potential costs and benefits of the action, the distribution of these impacts, and a determination of whether the proposed action would have a significant economic impact on a substantial number of small entities. Depending on the nature of the proposed regulations assessment of the economic impacts on small businesses, small organizations, and small Governmental jurisdictions may be required. If an action is determined to affect a substantial number of small entities, the analysis must include:

- 1) A description and estimate of the number of regulated small entities and total number of entities in a particular affected sector, and the total number of small entities affected; and
- 2) Analysis of the economic impact on regulated small entities, including the direct and indirect compliance costs of completing paperwork or recordkeeping requirements, effect on the competitive position of small entities, effect on the small entity’s cash flow and liquidity, and ability of small entities to remain in the market.

If it is clear that an action would not have a significant economic impact on a substantial number of small regulated entities, the RFA allows Federal agencies to certify the proposed action to that effect to the SBA. The decision on whether or not to certify is generally made after the final decision on the preferred alternatives for the action and may be documented at either the proposed rule or the final rule stage.

Based on the information and analyses provided in earlier sections of this Omnibus Amendment, it is clear that this action would not have a significant economic impact on a substantial number of small entities, and that certification under the RFA is warranted. The remainder of this section establishes the factual basis for this determination, as recommended by the Office of Advocacy at the SBA.

8.10.3.1 Description and Estimate of Number of Small Entities to Which the Action Applies

The implementation of this action will formalize the process of addressing scientific and management uncertainty when setting catch limits for the upcoming fishing year(s) and establishing a comprehensive system of accountability for catch (including both landings and discards) relative to those limits, for each of the managed resources. Because this action would modify the process by which catch limits and accountability are applied to the managed resources fisheries, the small entities to which this action applies include all federally permitted fishing vessels for the managed resources operating in the Northeast Region. These vessels include both small regulated entities engaged in either commercial harvesting or a party/charter business activity. The small business size standard for commercial fishing (NAICS 1411) is \$4 million in gross sales while the size standard for party/charter businesses (NAICS 487210) is \$6.5 million in gross sales. During fishing year 2009, the total number of Federal fishing permits issued either a recreational or a commercial permit for the managed resources in the Northeast Region were 17,794 and 4,714, respectively (section 6.5.2). However, since many vessels are issued multiple permits the number of unique fishing entities totaled 3,911. Of these vessels, 2,854 held only a commercial harvesting permit, 206 held only a party/charter permit, while the remaining 851 operating units held at least one commercial harvest permit and at least one party/charter permit. Nearly all of the 3,911 permitted vessels did report at least some sales of commercially caught species in the Northeast region. This includes most of the 206 vessels that did not hold a commercial permit for any of the species managed under this FMP since they may have held other commercial permits. However, only about one-third of these vessels (1,285) reported landing of at least one pound of the managed species covered by the proposed action. Based on total sales, there were only 6 of the 1,285 participating regulated commercial fishing entities that had sales exceeding \$4 million.

A total of 1,057 vessels were issued at least one recreation party/charter permit during 2009. Of these small entities 548 carried for-hire passengers on at least one occasion of which 452 retained at least one pound of any of the species managed under the proposed action. Note that this number includes 84 of the 206 permitted vessels that only held recreational permits and 368 of the 851 permitted vessels that held both commercial and recreational party/charter permits. Based on average passenger fees of \$62.38¹ none of the participating party/charter operators exceeded \$861,000 so all participating entities were determined to be small entities under the SBA size standards.

8.10.3.2 Economic Impacts on Small Entities

The economic impacts associated with each alternative considered in the development of this Omnibus Amendment are evaluated throughout section 7.0. For the purposes of the RFA certification review, the following addresses the economic impacts associated with each element of the proposed action.

8.10.3.2.1 Accountability Measures

¹ The 2006 party/charter average expenditure estimate (\$57.76; Table 12) was adjusted to its 2009 equivalent using the Bureau of Labor's Consumer Price Index.

This element of the proposed action addresses accountability for catch, for each of the managed resources. Because the actions proposed in this section are administrative in nature, there are no marginal changes to the economic impacts on small entities associated with this element (see section 7.0). If in the future, the implementation of the administrative processes described in this document indirectly results in any economic impacts, those would be identified and analyzed in the future management action.

8.11.3.3 Criteria Used to Evaluate the Action

8.11.3.3.1 Significant Economic Impacts

The RFA requires Federal agencies to consider two criteria to determine the significance of regulatory impacts: Disproportionality and profitability. If either criterion is met for a substantial number of small entities, then the action should not be certified.

8.11.3.3.1.1 Disproportionality

Since all party/charter operators were determined to be small the disproportionality standard does not apply.

8.11.3.3.1.2 Profitability

As noted above, none of the elements of this proposed action are associated with economic impacts on small entities. This is the case for small regulated entities engaged in recreational party/charter activities. Since the proposed action would have no economic impact on small entities there would no change in expected profitability.

8.11.3.4 Substantial Number of Small Entities

Indirectly, the methodologies established by this action apply generally across all of the managed resource fisheries under the subject FMPs. However, although a substantial number of entities are involved in these fisheries, none of these entities are expected to incur any economic impacts as a result of this action.

8.11.3.5 Description of and Explanation of, the Basis for All Assumptions Used

Because the actions proposed in this Omnibus Amendment are all are focused on the administrative aspects of scientific and management uncertainty for these fisheries, along with a comprehensive system of accountability, there are no direct economic impacts associated with this Omnibus Amendment. No assumptions are necessary to conduct the analyses in support of this conclusion.

9.0 EFH ASSESSMENT

The managed resources have EFH designated in many of the same bottom habitats that have been designated as EFH for most of the MAFMC, New England Fishery Management Council, South Atlantic Fishery Management Council, and NMFS Highly

Migratory Species Division managed species. An overview of habitat information for the managed resources is available in section 6.3 of this document.

9.1 Description of Action

The purpose of the proposed action is to amend established recreational accountability measures. Under the EFH Final Rule, “Councils must act to prevent, mitigate, or minimize any adverse effect from fishing, to the extent practicable, if there is evidence that a fishing activity adversely affects EFH in a manner that is more than minimal and not temporary in nature...” Because of the narrow scope of this document, and the fact that any action taken is consistent with the current regulations implementing the FMP and the MSA, the effects of fishing on EFH have not been re-evaluated since they were analyzed in Amendment 13, and no alternatives to minimize adverse effects on EFH are presented.

9.2 Analysis of Potential Adverse Effects on EFH

Recreational fisheries in general are not associated with significant impacts on habitat (including EFH).

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11.0 LIST OF PREPARERS OF THE ENVIRONMENTAL ASSESSMENT

This Omnibus Amendment was submitted to NMFS by the MAFMC. This document was prepared by the following members of the MAFMC technical staff: James Armstrong. In addition, input throughout Omnibus Amendment development was provided by the AM Amendment Fishery Management Action Team (FMAT): Moira Kelly, Sarah Beigel, Scott Steinback, and Anthony Wood.

Copies of the Omnibus Amendment may be obtained from Dr. Christopher M. Moore, Mid-Atlantic Fishery Management Council, 800 North State St., Suite 201, Dover, DE 19901, (telephone 302-674-2331).

12.0 LIST OF AGENCIES AND PERSONS CONSULTED

In preparing this Omnibus Amendment, the Council consulted with the NMFS, New England and South Atlantic Fishery Management Councils, Fish and Wildlife Service, and the states of Maine through North Carolina through their membership on the Mid-Atlantic and New England Fishery Management Councils. In addition, states that are members within the management unit were consulted by NMFS through the Coastal Zone Management Program consistency process.

In order to ensure compliance with NMFS formatting requirements, the advice of NMFS Northeast Region personnel, Michael Ruccio, Michael Pentony, and Jennifer Anderson, was sought.

GLOSSARY

Acceptable biological catch. A level of stock or stock complex's annual catch that accounts for scientific uncertainty in the estimate of the overfishing limit (OFL; see definition below), and other sources of scientific uncertainty.

Accountability measures. Management controls that prevent annual catch limits (ACLs; see definition below) from being exceeded (i.e., proactive measures), or where possible, correct or mitigate overages if they occur (i.e., reactive measures).

Amendment. A formal change to a fishery management plan (FMP). The Council prepares amendments and submits them to the Secretary of Commerce for review and approval. The Council may also change FMPs through an FMP framework adjustment (see below).

Annual catch limit. The level of annual catch of a stock or stock complex that serves as a basis for invoking accountability measures.

Annual catch target. The level of annual catch of a stock that is the management target of the fishery. Considered to be a type of accountability measure (AM).

B. Biomass, measured in terms of total weight, spawning capacity, or other appropriate units of production.

BMSY. Long-term average exploitable biomass that would be achieved if fishing at a constant rate equal to FMSY. For most stocks, BMSY is about $\frac{1}{2}$ of the carrying capacity. Overfishing definition control rules usually call for action when biomass is below $\frac{1}{4}$ or $\frac{1}{2}$ BMSY, depending on the species.

Bycatch. Fish that are harvested in a fishery, but which are not sold or kept for personal use. This includes economic discards and regulatory discards. The fish that are being targeted may be bycatch if they are not retained.

Commission. Atlantic States Marine Fisheries Commission (ASMFC).

Committee. The Monitoring Committee, made up of staff representatives of the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils, the Commission, the Northeast Regional Office of NMFS, the Northeast Fisheries Center, and the Southeast Fisheries Center. The MAFMC Executive Director or his designee chairs the Committee.

Conservation equivalency. The approach under which states are required to develop, and submit to the Commission for approval, state-specific or region-specific management measures (i.e., possession limits, size limits, and seasons) designed to achieve state specific or region-specific harvest limits.

Control rule. A pre-determined method for determining actions.

Council. The Mid-Atlantic Fishery Management Council.

Exclusive Economic Zone. For the purposes of the Magnuson-Stevens Fishery Conservation and Management Act, the area from the seaward boundary of each of the coastal states to 200 nautical miles from the baseline.

Fishing for managed resources. Any activity, other than scientific research vessel activity, which involves: (a) the catching, taking, or harvesting of the managed resources; (b) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of the managed resources; or (c) any operations at sea in support of, or in preparation for, any activity described in paragraphs (a) or (b) of this definition.

Fishing effort. The amount of time and fishing power used to harvest fish. Fishing power is a function of gear size, boat size, and horsepower.

Fishing mortality rate. The part of the total mortality rate (which also includes natural mortality) applying to a fish population that is caused by man's harvesting. Fishing mortality is usually expressed as an instantaneous rate (F), and can range from 0 for no fishing to very high values such as 1.5 or 2.0. The corresponding annual fishing mortality rate (A) is easily computed but not frequently used. Values of A that would correspond to the F values of 1.5 and 2.0 would be 78 percent and 86 percent, meaning that there would be only 22 percent and 14 percent of the fish alive (without any natural mortality) at the end of the year that were alive at the beginning of the year. Fishing mortality rates are estimated using a variety of techniques, depending on the available data for a species or stock.

FMSY. A fishing mortality rate that would produce MSY when the stock biomass is sufficient for producing MSY on a continuing basis.

Framework adjustments. Adjustments within a range of measures previously specified in a fishery management plan (FMP). A change usually can be made more quickly and easily by a FMP framework adjustment than through an amendment. For plans developed by the Mid-Atlantic Council, the procedure requires at least two Council meetings including at least one public hearing and an evaluation of environmental impacts not already analyzed as part of the FMP.

Landings. The portion of the catch that is harvested for personal use or sold.

Management uncertainty. Less than perfect application of management measures (i.e., implementation error). Management uncertainty can occur because of a lack of sufficient information about the catch or because of a lack of management precision in many fisheries.

Metric ton. A unit of weight equal to 1,000 kilograms (1 kg = 2.2 lb.). A metric ton is equivalent to 2,205 lb. A thousand metric tons is equivalent to 2.2 million lb.

Mortality rates. The rate at which the numbers in a population decline over time. Mortality rates are critical parameters for determining the effects of harvesting strategies on fish stocks and yields. Together, the natural mortality rate (M) and fishing mortality rate (F) make up the total mortality rate (Z). Natural mortality is the death of fish from all causes other than fishing (e.g. aging, predation, cannibalism, disease, etc.).

MSY. Maximum sustainable yield. The largest long-term average yield (catch) that can be taken from a stock under prevailing ecological and environmental conditions.

Optimum yield. MSY from the fishery, as reduced by any relevant economic, social, or ecological factor; and, in the case of an overfished fishery, that provides for rebuilding to a level consistent with producing the MSY in such fishery.

Overfished. An overfished stock is one “whose size is sufficiently small that a change in management practices is required to achieve an appropriate level and rate of rebuilding.” A stock or stock complex is considered overfished when its population size falls below the minimum stock size threshold (MSST). A rebuilding plan is required for stocks that are deemed overfished. A stock is considered “overfished” when exploited beyond an explicit limit beyond which its abundance is considered “too low” to ensure safe reproduction.

Overfishing. According to the National Standard Guidelines, “overfishing occurs whenever a stock or stock complex is subjected to a rate or level of fishing mortality that jeopardizes the capacity of a stock or stock complex to produce maximum sustainable yield (MSY) on a continuing basis.” Overfishing is occurring if the maximum fishing mortality threshold (MFMT) is exceeded for 1 year or more. In general, it is the action of exerting fishing pressure (fishing intensity) beyond the agreed optimum level. A reduction of fishing pressure would, in the medium term, lead to an increase in the total catch.

Overfishing limit. The annual amount of catch that corresponds to the fishing mortality rate at maximum sustainable yield applied to stock abundance (in no. or weight).

Party/Charter boat. Any vessel which carries passengers for hire to engage in fishing.

Scientific uncertainty. Less than perfect knowledge about the likely outcome of an event, based on estimates derived from scientific information (models and data).

Sector. A grouping of similar fish harvesting entities participating under a specified ACL. Examples include recreational fishery participants (i.e., recreational sector), commercial fishery participants (i.e., commercial sector) or smaller sub-components of each such as party/charter vessels (i.e., party/charter sector--sub sector of the recreational sector).

Status Determination. A determination of stock status relative to B-threshold (defines overfished) and F-threshold (defines overfishing). A determination of either overfished or overfishing triggers a SFA requirement for rebuilding plan (overfished), ending overfishing (overfishing) or both.

Stock. A grouping of a species usually based on genetic relationship, geographic distribution and movement patterns. A region may have more than one stock of a species (for example, Gulf of Maine cod and Georges Bank cod).

