

5.0 ALTERNATIVES TO THE PROPOSED ACTION

This section summarizes the alternatives to the proposed action that were considered. The details of measures are discussed under Alternative 1.

5.1 No Action

The Council considered not adopting any of the proposed measures. Under this alternative, the management measures for the Northeast Multispecies Fishery would not be revised and the most recent measures adopted by Amendment 13 and Framework Adjustment 40A, as implemented, would remain in effect. Amendment 13 adopted a suite of measures to manage the multispecies fishery. The implementing regulations can be found at 50 CFR 648 Subpart F. The Amendment 13 measures can be sorted into the following broad categories:

- Clarification of status determination criteria: overfishing definitions
- Rebuilding programs: fishing mortality trajectories designed to rebuild overfished stocks that serve as the fundamental basis for management measures.
- Fishery administration measures: reporting requirements, provisions for sector allocation and special access programs (SAPs), the U.S./Canada Resource Sharing Understanding, permit requirements, DAS leasing, etc.
- Measures to control capacity: a DAS transfer program that allows the permanent transfer of DAS, and the categorization of DAS based on vessel fishing history during the period FY 1996 through FY 2001;
- Measures to minimize, to the extent practicable, the adverse effects of fishing on essential fish habitat (EFH);
- Measures to meet fishing mortality targets: measures for the commercial and recreational fishery designed to control fishing mortality.

FW 40A modified the Amendment 13 management measures by providing additional opportunities to target healthy fish stocks. The provisions of FW 40A applicable to this action will be explained below.

Of the Amendment 13 and FW 40A management measures that would not be changed if the No Action alternative were selected, the ones that bear most directly on the proposed action are the rebuilding programs, the DAS baseline and DAS categories, the DAS leasing and transfer programs, the GB Cod Hook Sector, the SAPs that were implemented, and trip gillnet net limitations. Amendment 13 did not change provisions that allowed herring vessel access to year-round groundfish closed areas. In order that the No Action alternative can be clearly contrasted with the proposed action, these management measures will be described in further detail. Other measures adopted by Amendment 13 or other actions will not be changed by the proposed action and as a result are not described in this section. For additional details, please refer to the implementing regulations.

Amendment 13 adopted formal rebuilding programs for regulated groundfish stocks that are overfished. "Overfished" stocks are those that are at low biomass levels. Stocks also need a rebuilding program if they were previously identified at low biomass levels and have not yet finished rebuilding. These programs take the form of a strategy that identifies target fishing mortality rates for these stocks.

ALTERNATIVES TO THE PROPOSED ACTION

No Action

Analyses in Amendment 13 demonstrates that if these fishing mortality rates are achieved, the overfished stocks should rebuild to a biomass that will support maximum sustainable yield, and will do so within the time period required by the M-S Act. The following stocks have formal rebuilding programs adopted in Amendment 13, though for some of these stocks, they are no longer overfished and the rebuilding fishing mortality target is higher than current fishing mortality:

- GOM cod
- GB cod
- Plaice
- GB haddock
- GOM haddock
- CC/GOM yellowtail flounder
- SNE/MA yellowtail flounder
- SNE/MA winter flounder
- Windowpane flounder (south)
- White hake
- Redfish
- Ocean pout
- Atlantic halibut

A primary management tool in the multispecies fishery is the control on the amount of days (days-at-sea, or DAS) that fishing vessels can fish. Amendment 13 changed how the DAS assigned to a limited access multispecies permit can be used. For each limited access permit, Amendment 13 evaluated the fishing history of the permit during the period FY 1996 through FY 2001. For the years when the permitted vessel landed at least 5,000 pounds of regulated groundfish, the number of DAS used during a qualifying fishing year (not to exceed the permit's FY 2001 allocation) was defined as the vessel's "effective effort." Sixty percent of the permit's effective effort was defined as Category A DAS, while the other forty percent was defined as Category B DAS (evenly divided between Category B (regular) and Category B (reserve) DAS). The difference between the permit's effective effort and its 2001 allocation were then defined as Category C DAS.

Amendment 13 established limitations on the different DAS categories. Category A DAS can be used to target any groundfish stock, subject to the limitations of Amendment 13 (including landing limits, gear requirements, closed areas, reporting requirements, etc.). Category B DAS can only be used in specific programs that are designed to target healthy groundfish stocks. Category C DAS cannot be used at this time, but may be made available at some time in the future. Under the regulations implementing Amendment 13, only one opportunity was created to use Category B DAS. A SAP was implemented that allows vessels to use either Category A or Category B DAS to fish in part of CAII to target GB yellowtail flounder. This SAP opens on June 1, allows for 320 trips, and has a trip limit of 30,000 pounds of yellowtail flounder.

The number of DAS that can be used (whether Category A or Category B) can affect the rebuilding programs. The management measures in Amendment 13 were designed to achieve the target fishing mortality rates, but were based on Category A DAS use only. Programs that allow for the use of Category B DAS must be carefully designed so that they do not unacceptably increase the risk that rebuilding fishing mortality targets will not be met (mortality will be too high). If the No Action alternative were selected, then additional Category B DAS would not be used and the effort used would more closely match the analyses in Amendment 13 and FW 40A.

ALTERNATIVES TO THE PROPOSED ACTION

No Action

Amendment 13 also changed the number of nets that can be used by trip gillnet fishing vessels. Prior to May 2002, trip gillnet vessels were allowed to fish an unlimited number of nets with the requirement that all nets be removed from the water when a trip ended. As a result of a court order, a limit on the number of nets was in effect from May 2002 through April 2004. This limit varied for different areas fished, ranging from 50 nets in the GB regulated mesh area to 150 nets in the GOM regulated mesh area. Amendment 13 increased the number of nets that can be fished on GB to 150 nets.

Amendment 13 adopted two programs that facilitate the exchange of DAS between limited access permit holders. The DAS leasing program allows the temporary transfer of DAS from one permit to another. The vessels exchanging DAS must have similar vessel lengths and horsepower. The DAS transfer program allows for the permanent transfer of DAS between two vessels. For the transfer program, the two vessels involved must have similar length, horsepower, gross, and net tonnage. In addition, the vessel selling DAS must exit all state and federal fisheries and any non-groundfish permits expire.

Amendment 13 provided a mechanism for a group of fishermen to operate as a sector, and established the GB Cod Hook Sector. The rules for the sector stated that only vessels with a history of using hook gear could join the sector. The sector is granted a portion of the GB cod TAC that is based on the catch history of the sector participants. Only cod that was caught with hook gear is used to calculate the sector's share of GB cod.

Herring vessel access to groundfish closed areas has been managed through a series of actions (see section 3.3 for a summary). Under existing regulations, herring mid-water trawl vessels are allowed to fish in any groundfish closed area, while purse seine vessels are allowed to fish in the WGOM closed area and the Cashes Ledge closed area. Both of these gears are referred to as exempted gear – that is, gear that is deemed not capable of catching groundfish.

FW 40A (as implemented) provided opportunities to target healthy groundfish stocks by establishing two additional SAPs and one program to use Category B (regular) DAS. GB haddock can be targeted using longline gear through the CAI Hook Gear Haddock SAP by participants in the GB cod sector, and by vessels using trawl gear in the Eastern U.S./Canada Haddock SAP Pilot Program. Each of these programs controls the catch of cod and haddock through a hard TAC supported by additional reporting and gear requirements. The Category B (regular) DAS Pilot Program allows vessels to target healthy stocks while using Category B (regular) DAS. For all of these programs, the catch of stocks of concern is limited by hard TACs (referred to as “incidental catch TACs”) that are monitored through additional reporting requirements. In addition, the program is limited to 1,000 DAS per quarter for four consecutive quarters. If the No Action alternative were selected, these two SAPs, the CAII Yellowtail Flounder SAP and the Category B (regular) DAS Pilot Program would be the only opportunity to use Category B DAS.

5.2 *Alternative 1*

5.2.1 DAS Leasing/DAS Transfer Provisions Alternatives (Measure A)

5.2.1.1 Changes to the DAS Leasing and Transfer Programs Conservation Tax (Measure A.1)

Amendment 13 adopted two programs that allow the transfer of DAS from one groundfish permit to another. The DAS leasing program allows the temporary transfer of Category A DAS for a period not to exceed one year. The DAS transfer program allows for the permanent transfer of Category A, B and C DAS from one permit to another. Both programs are subject to additional restrictions that limit the transfer of DAS to similarly sized vessels. In addition, under the DAS transfer program, the vessel losing DAS must exit all fisheries. Under the terms of the DAS transfer program, DAS that are transferred to another permit are reduced by a fixed percentage that is commonly referred to as a conservation tax. DAS transferred under the leasing program, however, are not subject to any such tax. The Council is considering changes to the conservation tax for both the leasing and transfer programs.

At present, only whole DAS can be leased. If a conservation tax is applied to the DAS leasing program (Options 2 or 3), this provision will remain in place. The tax will be applied to the whole DAS from the lessee, and the lessor will receive the resulting DAS. For example, with a tax of 10 percent, if Vessel A leases 12 DAS to Vessel B, Vessel B will receive (12 DAS – 10 percent tax), or 10.8 DAS.

5.2.1.1.1 Option 1 – 20/0 (Measure A.1.a)

Under this option, any Category A or B DAS that are transferred under the DAS transfer program would be reduced by twenty percent. Category C DAS would continue to be reduced by ninety percent. There would be no conservation tax for DAS transferred under the DAS leasing program

Rationale: This measure reduces the conservation tax for the DAS transfer program to make that program more attractive.

5.2.1.1.2 Option 2 – 20/20 (Measure A.1.b)

Under this option, any Category A or B DAS that are transferred under the DAS transfer program would be reduced by twenty percent. Category C DAS would continue to be reduced by ninety percent. DAS transferred under the DAS leasing program would be reduced by twenty percent.

Rationale: This measure reduces the conservation tax for the DAS transfer program and adopts the same conservation tax for the DAS leasing program. As a result, DAS will be treated the same under both programs, so the decision on which program to use to transfer DAS will be based on other factors.

ALTERNATIVES TO THE PROPOSED ACTION

Alternative 1

5.2.1.1.3 Option 3 – 10/10 (Measure A.1.c)

Under this option, any Category A or B DAS that are transferred under the DAS transfer program would be reduced by ten percent. Category C DAS would continue to be reduced by ninety percent. DAS transferred under the DAS leasing program would be reduced by ten percent.

Rationale: This measure reduces the conservation tax for the DAS transfer program and adopts the same conservation tax for the DAS leasing program. As a result, DAS will be treated the same under both programs, so the decision on which program to use to transfer DAS will be based on other factors. In both programs, the tax is lower than in Measure A.1.b, which will facilitate transfers of DAS.

5.2.1.2 DAS Transfer Program Modifications (Measure A.2)

The following modifications to the DAS transfer program are being considered in order to encourage the use of this program. Vessels using the DAS transfer program will be offered the following choices:

5.2.1.2.1 Option 1 (Measure A.2.1) – Accepting Non-Groundfish Permits

A vessel operator obtaining additional DAS through the DAS transfer program can accept all the limited access permits of the vessel selling the DAS. Any duplicate permits expire. If both vessels have a permit in a fishery but the permits have different categories, the vessel obtaining the permits can select which permit category to retain. Only groundfish DAS can be consolidated unless other management plans authorize consolidation of DAS. Any groundfish DAS that are consolidated are reduced by the applicable conservation tax.

Example (1): Permit A has a multispecies permit (52 DAS), monkfish Category C, and a scallop general category permit. Permit B has a multispecies combination permit (20 DAS), a monkfish Category C permit, and a full-time scallop permit. Permit A accepts all endorsements from Permit B and chooses to keep the combination permit and the full time scallop permit. Permit A now has 72 groundfish DAS (less any conservation tax on the 20 DAS transferred) on its multispecies combination permit, a full-time scallop permit, and a monkfish Category C permit. Permit A does not get additional monkfish DAS, since the monkfish FMP does not currently allow DAS transfers. The vessel for Permit B cannot fish in any state or federal fishery (see Option 3 below).

Example (2): Permit A has a multispecies permit (52 DAS), monkfish Category C, and a scallop general category permit. Permit B has a multispecies permit (20 DAS), monkfish Category E permit, fluke moratorium permit, and a scallop general category permit. Permit A accepts the multispecies permit and the fluke permit. Permit A now has a multispecies permit with 72 groundfish DAS (less any conservation tax on the 20 DAS transferred), a monkfish Category C permit, a fluke moratorium permit, and a scallop general category permit. Permit A does not get additional monkfish DAS, since the monkfish FMP does not currently allow DAS transfers. Permit B does not have any permits, since the duplicate monkfish and general category scallop permits expire and the groundfish permit was transferred. The vessel for Permit B must be cannot fish in any state or federal fishery (see Option 3 below).

ALTERNATIVES TO THE PROPOSED ACTION
Alternative 1

5.2.1.2.2 Option 2 (Measure A.2.2) – Refusing Non-Groundfish Permits

A vessel operator obtaining additional DAS through the DAS transfer program can waive acceptance of all limited access permits from the selling vessel and as a result the DAS transferred will not be subject to a conservation tax.

Example (3): Permit A has a multispecies permit (52 DAS), monkfish Category C, and a scallop general category permit. Permit B has a multispecies permit (20 DAS), monkfish Category C permit, fluke moratorium permit, and a scallop general category permit. Permit A accepts only the multispecies permit. Permit A now has a multispecies permit with 72 DAS (no conservation tax is applied), a monkfish Category C, and a scallop general category permit. Permit B does not have any permits, since all permits expire when the groundfish DAS are transferred. The vessel for Permit B cannot fish in any state or federal fishery (see Option 3 below).

5.2.1.2.3 Option 3 (Measure A.2.3) – Removal of Proxy Vessel

When selling groundfish DAS, the DAS transfer program requires that a vessel be removed from all state and federal fisheries. The selling vessel owner can identify a proxy vessel with a permit baseline that falls within the range of the permit upgrading restrictions that can be removed from all fisheries in place of the selling vessel.

Example (4): Vessel A purchases DAS from Vessel B through the DAS transfer program. The owner of permit B identifies a third vessel with comparable baselines (Vessel C) that is scrapped in place of Vessel B. Vessel B will not have any permits attached, but other permits can be attached to the vessel and it can continue to fish in state and/or federal fisheries.

Rationale: These three options will make the DAS transfer program more attractive to permit holders. The current requirement that all endorsements expire when groundfish DAS are transferred effectively increases the cost of those DAS, making the program unattractive. Allowing the removal from all fisheries of a substitute vessel will enable the fleet to keep the vessel operating that is in the best condition, improving fleet safety.

5.2.2 Incidental Catch TACs (Measure B)

In order to ensure that any catch (landings and discards) of stocks of concern taken while using a Category B (regular or reserve) DAS does not threaten the mortality objectives of Amendment 13, catches of those stocks taken on a Category B DAS are constrained by a “hard” incidental catch TAC adopted by FW 40A. These TACs are based on a percentage of the overall TAC for the stock of concern. The percentages used, and the incidental catch TACs that result for FY 2005 and 2006, are shown in Table 6.

The incidental catch TACs are allocated to programs developed to use Category B (regular or reserve) DAS where appropriate. The percentage of the TAC allocated to these programs can be adjusted through a management action such as a framework or amendment. Since this action proposes to adopt two additional SAPs, the allocations made in FW 40A must be revised to account for these additional programs. The allocations proposed for this action are shown as percentages of the incidental catch TAC in Table 7.

The GB cod incidental catch TAC is reduced by up to 10 percent in order to allow for the conduct of experiments. This TAC will be released to the Category B DAS programs on May 1 if no applications have been received to use this TAC. This creates a research set-aside of 9.7 mt in FY 2005 and 12.7 mt in

ALTERNATIVES TO THE PROPOSED ACTION

Alternative 1

FY 2006. Current estimates of the revised GB cod incidental catch TACs for FY 2005 and FY 2006 are shown in Table 8. Current estimates of the revised GOM cod incidental catch TACs for FY 2005 and 2006 are shown in Table 9.

Rationale: The management measures in Amendment 13 are designed to meet the mortality objectives of the amendment. They were evaluated on the basis of Category A DAS use only. Any used Category B DAS represent an increase in effort, and if the catch of stocks of concern from fishing on a Category B DAS is not controlled, it is possible that additional catches will threaten the mortality objectives of the amendment. If the use of Category B DAS is constrained by an incidental catch TAC, then the catches of stocks of concern resulting from Category B DAS will not threaten the Amendment 13 mortality objectives. Incidental catch TACs are not specified for ocean pout, southern windowpane flounder, and Atlantic halibut, three stocks of concern, because catches of these stocks are insignificant.

A two-tier approach for establishing the appropriate TACs was adopted by FW 40A. For some stocks, the Amendment 13 management measures are expected to reduce mortality more than is required, and the catch estimated in 2003 will be less than the 2004 TAC. These stocks are limited to five percent of the total TAC. For other stocks, the Amendment 13 measures are expected to more closely match the required mortality reduction, and the expected catch in 2003 is not less than the 2004 TAC. The rationale and development of the incidental catch TACs is explained in section 7.2 of FW 40A.

Where appropriate, the incidental catch TACs are allocated to the programs that use Category B (regular or reserve) DAS. An incidental catch TAC for a specific stock is only allocated to a program if there is likelihood that stock will be caught in the program. If an incidental catch TAC were defined for each program regardless if that stock were likely to be caught, it would add administrative complexity without providing any conservation benefit. For example, a program that takes place on Georges Bank need not be allocated a TAC for a stock that is only located in Southern New England. Similarly, a program limited to hook gear is not likely to need a TAC for yellowtail flounder, since they are rarely taken on hooks.

FW 40A adopted incidental catch TACs for two SAPs (CAI Hook Gear Haddock SAP and the CAII Haddock SAP Pilot Program) and the Category B (regular) DAS Pilot Program. Since this action proposes additional SAPs, the incidental catch TACs must be re-specified.

ALTERNATIVES TO THE PROPOSED ACTION
Alternative 1

	Percentage of Total Target TAC	Incidental Catch TAC	
		2005	2006
GOM cod	Two	127	149
GB cod	Two (less ten percent research set aside)	87.3	114.3
CC/GOM yellowtail	Two	25	21
Plaice	Five	181	151
White Hake	Two	76	76
SNE/MA Yellowtail	Five	99	166
SNE/MA Winter Flounder	Five	178	222
Witch Flounder	Five	350	383

Table 6 – Proposed incidental catch TACs for major stocks of concern (mt). TACs are for the fishing year

	Category B (regular) DAS Pilot Program	CAI Hook Gear SAP	CAII Haddock SAP	WGOM Haddock SAP	GB Haddock North of CAI SAP
GOM cod	95	NA	NA	5	NA
GB cod	45	13	34	NA	8
CC/GOM yellowtail	100	NA	NA	NA	NA
Plaice	100	NA	NA	NA	NA
White Hake	100	NA	NA	NA	NA
SNE/MA Yellowtail	100	NA	NA	NA	NA
SNE/MA Winter Flounder	100	NA	NA	NA	NA
Witch Flounder	100	NA	NA	NA	NA

Table 7 – Proposed allocation of incidental catch TACs for major stocks of concern to Category B DAS programs (shown as percentage of the incidental catch TAC)

	FY 2004	FY 2005	FY 2006
Category B (regular) DAS Pilot Program	39.5	39.3	51.4
CAI Hook Gear Haddock SAP	12.6	11.3	14.9
CAII Haddock SAP	27	29.7	38.9
Haddock Fishery North of CAI SAP	0	7	9.1
GB Cod research set aside	0	9.7	12.7

Table 8 – Current estimates of the GB cod incidental catch TACs for FY 2005 and 2006

	FY 2004	FY 2005	FY 2006
Category B (regular) DAS Pilot Program	97	120.7	141.5
WGOM Rod/Reel Haddock SAP	0	6.3	7.5

Table 9 – Current estimates of the GOM cod incidental catch TACs for FY 2005 and FY 2006

5.2.3 Special Access Programs (Measure C)

5.2.3.1 GB Haddock Fishery North of Closed Area I SAP (Measure C.1)

This SAP would allow the use of any type of DAS (including Category B (regular or reserve) DAS) to target haddock north of CAI while using appropriate gear. (This SAP does not prevent vessels from fishing in the area under the regulations required for using a Category A DAS).

Participants: Vessels possessing a commercial multispecies permit.

Location: This SAP would be allowed to take place in an area north of CAI defined by the following coordinates (see Figure 3):

41° –30' N 68° –30' W
41° –30' N 69° –23' W
41° –35' N 69° –23' W
41° –35' N 68° –30' W

Season: December 1 through April 30

Haddock Catch Limitation: This SAP is limited to a haddock catch (kept and discarded) of 1,000 mt. Fishing in this SAP will end on the date that NMFS projects the TAC will be caught. The Regional Administrator can adjust the haddock TAC on or about January 1 and will make any adjustment through a notice action consistent with the Administrative Procedures Act (APA). The TAC can be increased to a maximum of 2,000 mt. provided the following criteria are met:

- The Regional Administrator, based on available information, projects that the target TAC for GB haddock would not be exceeded by the end of the fishing year; and
- The Regional Administrator, based on available information, projects that existing management measures, including haddock TACs associated with approved SAPs, would harvest less than 75 percent of the target TAC for GB haddock by the end of the fishing year.

Incidental Catch Limitations: This SAP is limited to an incidental catch TAC of GB cod of eight percent of the GB cod incidental catch TAC. For FY 2005, the incidental catch TAC will be 7 mt, and the current estimate of this TAC for FY 2006 is 9.1 mt. All cod caught (kept and discarded) while using a Category B DAS will be applied against this TAC. Fishing in this SAP under a Category B DAS will end when the incidental catch TAC is projected to be caught.

Landing/Possession Limits:

- (1) Landing limits for all stocks other than cod will be as described in Amendment 13.
- (2) The cod possession limit for vessels fishing in the Haddock Fishery North of CAI SAP is 100 lbs/DAS to a maximum of 1,000 lbs./trip.
- (3) Vessels are not allowed to discard legal sized cod while participating in the Haddock SAP North of CAI on a Category B (regular or reserve) DAS. If a vessel exceeds the possession limit while using a Category B DAS for these SAPs, it must “flip” to a Category A DAS, notifying NMFS

ALTERNATIVES TO THE PROPOSED ACTION

Alternative 1

through VMS. Once a vessel “flips” to a Category A DAS, it must comply with all applicable regulations for vessels fishing on a Category A DAS (i.e. it is not required to use a haddock separator trawl, it must comply with Category A DAS landing limits, etc.).

- (4) The number of Category B DAS that can be used on a trip cannot exceed the number of Category A DAS available to the vessel at the start of the trip.

Gear: All vessels participating in this SAP must use gear that has been demonstrated not to catch significant amounts of cod. At implementation of this framework, the only gear authorized for participation in this SAP is trawl gear using a haddock separator trawl as described in 50 CFR 648.85(a)(3)(iii)(A). The Regional Administrator (RA) may expand the list of gear allowed to participate in this SAP based on the results of an experimental fishery that demonstrates the gear can be fished without catching significant amounts of cod. For the purposes of this SAP, this means the gear must demonstrate that it performs similar to the performance of the haddock separator trawl. The RA will implement changes to the authorized gear by publishing a proposed rule describing the gear and providing an opportunity for public comment prior to a final rule.

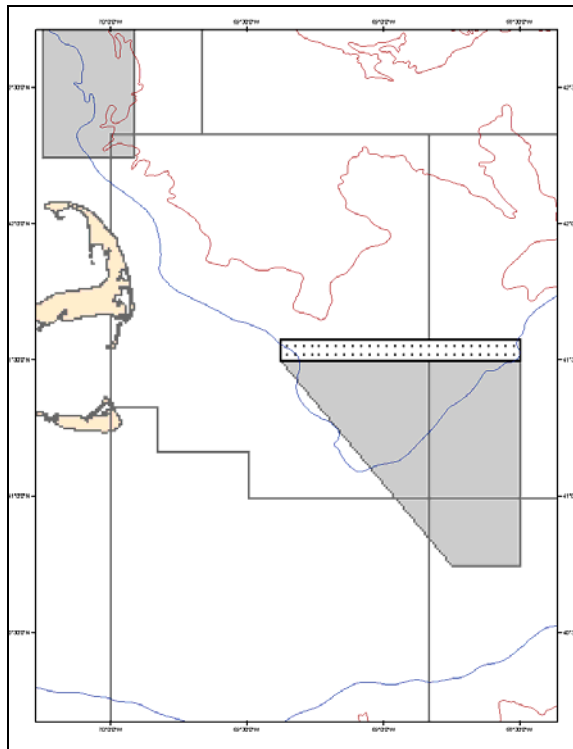


Figure 3 – Proposed haddock SAP area north of CAI (stippled area)

Observer Coverage:

- (1) The target level of observer coverage will be sufficient to ensure the goals of the program are met.

ALTERNATIVES TO THE PROPOSED ACTION
Alternative 1

(2) Vessels participating in the SAP must provide the observer program three days (72 hours before departure) advance notice of a CAI Haddock SAP trip.

Reporting Requirements:

- (1) All vessels participating in the SAP must use a Vessel Monitoring System (VMS).
- (2) Vessels must notify NMFS through VMS when beginning a trip into the SAP area. The vessel must identify the type of DAS being used on the trip (Category A, Category B (regular), or Category B (reserve)).
- (3) Vessels participating in the SAP must provide daily reports of catch (kept and discarded) via VMS in accordance with instructions provided by the RA. These reports shall include the catch of haddock, yellowtail flounder, and stocks of concern by statistical area. Vessels must also provide a report when crossing the boundary into or out of the western U.S./Canada boundary.

Other Provisions:

- (1) A vessel participating in this SAP cannot fish outside of the SAP area on the same trip, and cannot have any gear set outside of the SAP area while participating in the SAP.
- (2) Vessels are allowed to fish in the area north of CAI while using a Category A DAS and while not participating in the SAP. These vessels must comply with all regulations for Category A DAS but need not comply with specific SAP requirements.

Rationale: This measure creates an additional opportunity to target Georges Bank haddock in order to achieve optimum yield for that stock and to partially mitigate the effort reductions of Amendment 13. This SAP is closer to shore, which will expand opportunities for smaller vessels that cannot fish in the CAI Haddock SAP adopted by FW 40A. The limit on haddock catch ensures that this SAP will not threaten haddock mortality objectives, while the incidental catch TACs do the same for stocks of concern. Vessels are not allowed to fish inside and outside this SAP on the same trip in order to facilitate enforcement and monitoring of the SAP. The daily reporting requirements facilitate monitoring of the catch so the TACs are not exceeded.

5.2.3.2 WGOM Closed Area Rod/Reel Haddock SAP (Measure C.2)

This SAP would allow hand-tended rod/reel commercial fishing to target haddock inside the WGOM closed area. Participants are most likely to be smaller vessels that typically fish with handlines, longlines, or gillnets in the Gulf of Maine. As described in sections 6.4.2.3 and 6.4.2.4, landings and revenues of regulated groundfish by hook and line, gillnet, and longline vessels have not increased since FY 1996. Landings of regulated groundfish by hook and line were lower in FY 2003 than any year since 1996. This SAP provides a limited, small-scale opportunity for these vessels to benefit from the rebuilding haddock resource in the GOM.

5.2.3.2.1 General Provisions

Participants:

- Option 1: Vessels with limited access multispecies permits (including Handgear A permits)
- Option 2: Vessels with limited access DAS permits.

Rationale: Vessels possessing a commercial open access permit are not allowed to participate in this SAP because the number of permits is not controlled in any way.

Location: The Western Gulf of Maine Closed Area (see Figure 4)

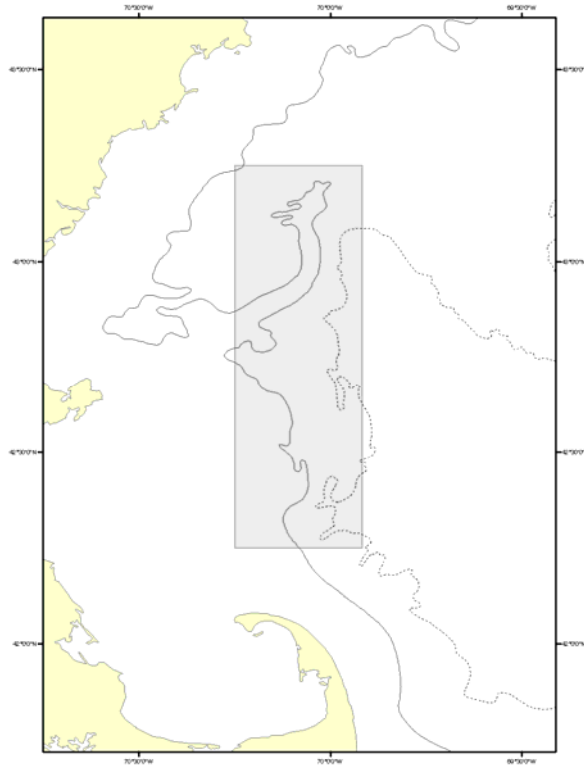


Figure 4 – WGOM Closed Area (shaded)

Haddock Catch Restrictions: This SAP is limited to 50 mt of haddock (kept and discarded). When the TAC is projected to be caught, participation in the SAP will be prohibited.

Incidental Catch Restrictions: This SAP is restricted to an incidental catch (cod cannot be retained) TAC for GOM cod of five percent of the GOM cod incidental catch TAC. All cod caught in this SAP, on any type of DAS, will count against the incidental catch TAC. Participation in the SAP will be prohibited on the date projected that the TAC will be caught. The current estimate of this TAC for FY 2005 is 6.3 mt, and for FY 2006 is 7.5 mt.

Landing/Possession Limits:

- (1) Participants in this program are not allowed to retain any cod.
- (2) Landing limits for haddock and other species will be as specified in existing regulations.

ALTERNATIVES TO THE PROPOSED ACTION

Alternative 1

- Gear:** (1) Vessels can only use hand-tended rod/reel gear as defined in 50 CFR 648.2, with the exception that treble hooks cannot be used. (No mechanical jigging devices or “bandit” gear are allowed, and all reels must be manual).
- (2) Full circle hooks must be used when using bait.

Rationale: This SAP is limited to selective rod and reel fishing. For vessels using bait, the full circle hook will help reduce discard mortality.

Reporting Requirements:

- (1) All vessels participating in the SAP must use an approved Vessel Monitoring System (VMS).
- (2) Vessel operators must provide daily reports of catch (kept and discarded) of all regulated groundfish species, by statistical area, through VMS. These reports must be submitted in accordance with instructions issued by the RA.
- (3) Vessel operators must notify NMFS through VMS when beginning a trip into the WGOM Closed Area Rod/Reel Haddock SAP.

Observer Coverage:

- (1) Vessel operators must provide the observer program three days (seventy-two hours prior to sailing) advance notice of a WGOM Rod/Reel Haddock SAP Trip.
- (2) Observer coverage will be sufficient to ensure the goals of the program are met.

Rationale: The observer program needs advance notice so that observers can be identified and meet the fishing vessels prior to departure.

Other Provisions: The Regional Administrator may close this access program if the catch of cod to haddock exceeds a ratio of 1:2, by weight. Closure of the program will be announced through notice action consistent with the Administrative Procedures Act (APA).

Rationale: This program facilitates the targeting of GOM haddock by commercial vessels. This restriction will reduce the likelihood that party/charter vessels will get a commercial hand gear permit, fish in the access program for part of the year, and then fish in the closed area targeting cod with a party/charter permit for the remainder of the year.

Duration: This SAP will expire two years after implementation of this action, unless extended by the Regional Administrator. Any extension will be announced through a notice action consistent with the Administrative Procedures Act. The Regional Administrator will allow this SAP to continue if all of the following conditions are met:

- The monitoring and enforcement provisions of the SAP prove sufficient to reliably document the catch of cod and haddock.
- In each of the two years that the SAP is conducted, the catch of cod does not exceed the cod TAC and the catch of haddock does not exceed the haddock TAC.
- The ratio of cod to haddock catch is less than 1:2, by weight.

5.2.3.2.2 Provisions for Limited Access DAS Permit Holders

ALTERNATIVES TO THE PROPOSED ACTION
Alternative 1

- (1) A vessel must elect to participate in this program for a minimum of seven days.
- (2) A vessel may not fish for groundfish or monkfish in any other area, and no groundfish or monkfish gear can be set in any other area, during the period that a vessel has elected to participate in this program.
- (3) **Season:** March and April

Rationale: The requirement to sign-in to the program for a minimum of seven days will facilitate enforcement and encourage vessels to remove all other gear while in the program. The prohibition on setting gear in other areas while in the program also facilitates enforcement and administration of the program, making it easier to track the catch of vessels participating in the SAP.

5.2.3.2.3 Provisions for Hand Gear Permit Holders

Season: March and April

Rationale: The season provides an opportunity for the smaller hand gear permit holders to access haddock as weather improves in the spring.

Other Provisions: Vessels may not fish in any other area while on a trip into the SAP area.

Rationale: This provision facilitates enforcement and makes it easier to track catches of the vessels participating in the program.

5.2.3.3 Closed Area II Yellowtail Flounder SAP (Measure C.3)

The season for the CAII Yellowtail Flounder SAP is revised to July 1 through December 31. Vessels participating in this SAP are limited to one trip per month. The yellowtail flounder landing limit for this SAP will be 10,000 pounds/trip unless adjusted by the Regional Administrator. Prior to June 1, the Regional Administrator, after consulting with the Council, will announce the number of trips authorized and the yellowtail flounder landing limit (not to exceed 30,000 pounds per trip). This announcement will be made as a notice action consistent with the Administrative Procedures Act.

When determining the number of trips and the appropriate trip limit, the Regional Administrator will consider the following factors:

- The available yellowtail flounder TAC under the US/CA Resource Sharing Understanding
- The potential catch of GB yellowtail flounder by all vessels (all gears) fishing outside of the SAP
- Recent discard estimates in all fisheries that catch yellowtail flounder
- Expected number of participants in the SAP

After consideration of these factors, the Regional Administrator will authorize the number of trips and appropriate trip limit that will provide for achieving but not exceeding the GB yellowtail flounder TAC and will result in a low risk of catching the GB yellowtail flounder_TAC before the end of the fishing year.

ALTERNATIVES TO THE PROPOSED ACTION
Alternative 1

The catch for this TAC should be based on the best estimate of the difference between the TAC and the catch that will be taken while fishing outside of the SAP on Category A DAS. Recent catches (landings and discards, all fisheries) have averaged about 3,750 mt. Based on this information, the suggested formula for determining the appropriate number of trips for FY 2005 is:

$$(TAC - 4,000 \text{ mt}) / 10,000 \text{ lbs.}$$

This formula can be revised by the Regional Administrator if it is determined that the catch outside of the SAP will be different than the 4,000 mt assumed by the formula, or if the Regional Administrator adjusts the landing limit. Factors to consider in adjusting the landing limit include the amount of fish available to the SAP, the number of participants, and the risk that

All other provisions for this SAP remain the same.

Rationale: The CAII Yellowtail Flounder SAP, as adopted in Amendment 13, begins on June 1. This data conflicts with peak spawning months for yellowtail flounder on Georges Bank. In addition to the concerns over interfering with spawning fish, fish quality is poor and there is lower demand (and consequently lower prices) as a result. Changing the programs starting date by one month will increase the benefits of this program because higher quality fish will be landed at a better price. Limiting participating vessels to one trip per month will help to extend the season, as will reducing the landing limit to 10,000 pounds per trip.

The SAP is designed to help attain OY on the GB yellowtail flounder stock. As implemented in Amendment 13, the SAP was limited to a specific number of trips with no provisions for an adjustment if stock conditions change. This measure provides the Regional Administrator the ability to adjust the number of trips if the GB yellowtail flounder TAC changes, and provides guidance so that the catch on the SAP is unlikely to result in closure of the eastern US/CA area due to catching the GB yellowtail flounder TAC. This will make it unlikely that the SAP will interfere with the harvest of other species in this area (in particular GB haddock), since the eastern US/Canada area will close if the GB yellowtail flounder TAC is caught. The number of trips in the SAP can be adjusted so that it will be unlikely the catch of yellowtail flounder will result in closing the Eastern US/CA area.

5.2.4 Minimum Effective Effort Allocation (Measure D)

For any permit that was not allocated any Category A or B DAS under the provisions of Amendment 13, ten of the permit's Category C DAS will be re-categorized to ten Category B (reserve) DAS. If these DAS are carried over into a following fishing year, they remain Category B (reserve) DAS. These DAS can only be used in the following existing SAPs:

- CAI Hook Gear Haddock SAP
- WGOM Closed Area Rod/Reel Haddock SAP

Rationale: Under Amendment 13 provisions, roughly 350 vessels did not receive any Category A or B DAS. As a result, the future access of these vessels to the groundfish fishery is in doubt, and they cannot currently access the fishery. By providing a minimum of ten Category B (reserve) DAS to all vessels, these vessels are provided a limited opportunity to participate in some existing SAPs (albeit at a very low effort level) and have more hope of future participation as stocks rebuild. They can only participate in SAPs that do not have a DAS flip provision, since this provision requires that vessels have Category A DAS available.

5.2.5 GB Cod Hook Sector Revisions (Measure E)

To determine the share of GB cod allocated to the GB hook sector, member's GB cod landings during the qualification period will be used, regardless of the gear used that produced those landings. The sector's overall share remains capped at a maximum of twenty percent of the overall target TAC.

Any vessel is eligible to join the sector, regardless of type of gear used in the past. Fishermen in the sector, however, must use hook gear.

Rationale: When Amendment 13 implemented the GB Cod Hook Sector, it specified that vessel' entering the sector only bring their history of fish caught by hooks into the sector. The general rules for a sector adopted by Amendment 13, however, provide that the members of the sector bring all their catch history into the sector, regardless of how caught. This measure will make the allocation decisions for the GB cod hook sector consistent with those of any other sector that forms in the future. It will probably increase the allocation of cod to the sector.

5.2.6 Change to DAS Effective Effort Calculation (Measure F)

Option 1 (Measure F.1): This is the No Action alternative. If this option is selected, no changes are made to the DAS allocations or default measures implemented by Amendment 13. A permit's effective effort (baseline allocation) is based on the maximum number of DAS used in any fishing year between 1996 and 2001, limited by the permit's allocation in FY 2001. Only years in which at least 5,000 pounds of regulated groundfish were landed are considered in this calculation.

Option 2 (Measure F.2): A permit's effective effort (baseline allocation) is based on the maximum number of DAS used (without regard to the annual allocation or carry-over DAS) in any fishing year between 1996 and 2001, not limited by the permit's allocation in FY 2001. Only years in which at least 5,000 pounds of regulated groundfish were landed are considered in this calculation. Fifty-five percent of permit's effective effort will be defined as Category A DAS, while forty-five percent will be defined as Category B DAS. Half of the Category B DAS will be defined as Category B (regular) DAS, and half will be defined as Category B (reserve) DAS. In FY 2006, fifty percent of a permit's effective effort will be defined as Category A DAS, and fifty percent will be defined as Category B DAS. In FY 2009, forty percent of a permit's effective effort will be defined as Category A DAS, and sixty percent will be defined as Category B DAS.

When calculating the effective effort for a permit, an adjustment will be made for the years that a vessel fished in the large mesh permit category. If a vessel was in the large mesh category during a year in which 5,000 pounds of regulated groundfish were landed, it will not receive credit for more than its original allocation of DAS (that is, the allocation before receiving the bonus for fishing in the large mesh category).

Option 3 (Measure F.3): A permit's effective effort (baseline allocation) is based on the maximum number of DAS used in any fishing year between 1996 and 2001, not limited by the permit's allocation in FY 2001. A permit will not be credited for using DAS in excess of the FY 2001 allocation if the excess is the result of using carry-over DAS. Only years in which at least 5,000 pounds of regulated groundfish were landed are considered in this calculation. Fifty-six percent of permit's effective effort

ALTERNATIVES TO THE PROPOSED ACTION

Alternative 1

will be defined as Category A DAS, while forty-four percent will be defined as Category B DAS. Half of the Category B DAS will be defined as Category B (regular) DAS, and half will be defined as Category B (reserve) DAS. In FY 2006, fifty-one percent of a permit's effective effort will be defined as Category A DAS, and forty-nine percent will be defined as Category B DAS. In FY 2009, forty-one percent of a permit's effective effort will be defined as Category A DAS, and fifty-nine percent will be defined as Category B DAS.

When calculating the effective effort for a permit, an adjustment will be made for the years that a vessel fished in the large mesh permit category. If a vessel was in the large mesh category during a year in which 5,000 pounds of regulated groundfish were landed, it will not receive credit for more than its original allocation of DAS (that is, the allocation before receiving the bonus for fishing in the large mesh category).

Rationale: Under Amendment 13, a permit's effective effort calculated with the same criteria (years, pounds landed) but was limited by the allocation in FY 2001. There has been some confusion whether Amendment 13 allocations were made consistent with Council decisions, so this measure is being considered to clarify the issue. Option 2 would allow effective effort to exceed a vessel's FY 2001 allocation, since some vessels used more DAS in a fishing year than they had allocated in FY 2001. Since this increases the number of DAS allocated, the split between Category A and B DAS must be changed in order to meet the mortality objectives of Amendment 13. Option 3 would not allow the use of carry-over DAS to influence a vessel's allocation. In both options, an adjustment will be made for vessels that fished in the large mesh permit category so that these vessels do not receive a "double-bonus" – an increase in the number of DAS used during the year, and an increase in the baseline that results from that use.

5.3 *Alternative 2*

The proposed action is based on this alternative, with minor modifications to several of the measures. This alternative is included in the document so the differences between the original form of the measures and the proposed action can be identified.

5.3.1 Summary

This alternative consists of the measures listed below. For the specific details of each measure, refer to Alternative 1 except where noted.

- Measure A.1: Changes to the DAS leasing and transfer conservation tax.
 - Option 1 (Measure A.1.a) – 20 percent conservation tax for Category A and B DAS, 90 percent conservation tax for Category C DAS under the DAS transfer program. No conservation tax for leased DAS.
 - Option 2 (Measure A.1.b) - 20 percent conservation tax for Category A and B DAS, 90 percent conservation tax for Category C DAS under the DAS transfer program. 20 percent conservation tax for DAS transferred under the leasing program.
 - Option 3 (Measure A.1.c) - 10 percent conservation tax for Category A and B DAS, 90 percent conservation tax for Category C DAS under the DAS transfer program. 10 percent conservation tax for DAS transferred under the leasing program.
- Measure B: Incidental catch TACs. The specifics of this measure are described below.
- Measure C: Special Access Programs
 - Western Gulf of Maine Closed Area Rod/Reel SAP (Measure C.2)
 - Participants Option 1 – vessel with limited access multispecies permits (including Handgear A permits)
 - Participants Option 2: Vessel with limited access DAS permits
 - CAII Yellowtail Flounder SAP (Measure C.3)
- Measure D: Minimum effective effort allocation
- Measure E: GB cod hook sector allocation
- Measure F: Change to DAS baseline calculation
 - Option 1 (Measure F.1) – No action
 - Option 2 (Measure F.2) – A vessel’s permit baseline is based on the maximum number of DAS used (without regard to the annual allocation or carry-over DAS) in any fishing year between FY 1996 and FY 2001. Only years in which at least 5,000 pounds of regulated groundfish were landed are considered in this calculation. Fifty-five percent are defined as Category A DAS, and forty-five percent are defined as Category B DAS. The percentage of Category A DAS are reduced in FY 2006 and FY 2009.
 - Option 3 (Measure F.3) - A vessel’s permit baseline is based on the maximum number of DAS used in any fishing year between FY 1996 and FY 2001. Only years in which at least 5,000 pounds of regulated groundfish were landed are considered in this calculation. Fifty-five and a half (55.5%) percent are defined as Category A DAS, and forty-five and a half (45.5%) percent are defined as

Category B DAS. The percentage of Category A DAS are reduced in FY 2006 and FY 2009.

5.3.2 Incidental Catch TACs (Measure B)

In order to ensure that any catch (landings and discards) of stocks of concern taken while using a Category B (regular or reserve) DAS does not threaten the mortality objectives of Amendment 13, catches of those stocks taken on a Category B DAS are constrained by a "hard" incidental catch TAC adopted by FW 40A. These TACs are based on a percentage of the overall TAC for the stock of concern. The percentages used, and the incidental catch TACs that result for FY 2005 and 2006, are shown in Table 10.

The incidental catch TACs are allocated to programs developed to use Category B (regular or reserve) DAS where appropriate. The percentage of the TAC allocated to these programs can be adjusted through a management action such as a framework or amendment. Since this action proposes to adopt one additional SAP, the allocations made in FW 40A must be revised to account for this program. The allocations proposed for this action are shown as percentages of the incidental catch TAC in Table 11.

The GB cod incidental catch TAC is reduced by up to 10 percent in order to allow for the conduct of experiments. This TAC will be released to the Category B DAS programs on May 1 if no applications have been received to use this TAC. This creates a research set-aside of 9.7 mt in FY 2005 and 12.7 mt in FY 2006. Current estimates of the revised GB cod incidental catch TACs for FY 2005 and FY 2006 are shown in Table 12. Current estimates of the revised GOM cod incidental catch TACs for FY 2005 and 2006 are shown in Table 13.

Rationale: The rationale is the same as for Alternative 1, with the exception that this alternative would not adopt the GB Haddock Fishery North of CAI SAP and so the GB cod TAC does not need to be adjusted for this SAP.

ALTERNATIVES TO THE PROPOSED ACTION
Alternative 2

	Percentage of Total Target TAC	Incidental Catch TAC	
		2005	2006
GOM cod	Two	127	149
GB cod	Two (less ten percent research set aside)	87.3	114.3
CC/GOM yellowtail	Two	25	21
Plaice	Five	181	151
White Hake	Two	76	76
SNE/MA Yellowtail	Five	99	166
SNE/MA Winter Flounder	Five	178	222
Witch Flounder	Five	350	383

Table 10 – Proposed incidental catch TACs for major stocks of concern (mt). TACs are for the fishing year

	Category B (regular) DAS Pilot Program	CAI Hook Gear SAP	CAII Haddock SAP	WGOM Haddock SAP	GB Haddock North of CAI SAP
GOM cod	95	NA	NA	5	NA
GB cod	50	16	34	NA	NA
CC/GOM yellowtail	100	NA	NA	NA	NA
Plaice	100	NA	NA	NA	NA
White Hake	100	NA	NA	NA	NA
SNE/MA Yellowtail	100	NA	NA	NA	NA
SNE/MA Winter Flounder	100	NA	NA	NA	NA
Witch Flounder	100	NA	NA	NA	NA

Table 11 – Proposed allocation of incidental catch TACs for major stocks of concern to Category B DAS programs (shown as percentage of the incidental catch TAC)

	FY 2004	FY 2005	FY 2006
Category B (regular) DAS Pilot Program	39.5	43.6	57.2
CAI Hook Gear Haddock SAP	12.6	14	18.3
CAII Haddock SAP	27	29.7	38.9
GB Cod research set aside	0	9.7	12.7

Table 12 – Current estimates of the GB cod incidental catch TACs for FY 2005 and 2006

	FY 2004	FY 2005	FY 2006
Category B (regular) DAS Pilot Program	97	120.7	141.5
WGOM Rod/Reel Haddock SAP	0	6.3	7.5

Table 13 – Current estimates of the GOM cod incidental catch TACs for FY 2005 and FY 2006

5.4 Alternative 3

5.4.1 Summary

This alternative consists of the specific measures listed below. For the specific details of each measure, refer to Alternative 1 except where noted.

- Measure A.2: DAS transfer program modifications
 - Option 1 (Measure A.4.1) – Accepting non-groundfish permits
 - Option 2 (Measure A.4.2) – Refusing non-groundfish permits
 - Option 3 (Measure A.4.3) – Removal of proxy vessel
- Measure B: Incidental catch TACs. The specifics of this measure are described below.
- Measure C: Special Access Programs
 - GB Haddock Fishery SAP North of CA I (Measure C.1)
 - CAII Yellowtail Flounder SAP (Measure C.3)
- Measure F: Change to DAS baseline calculation
 - Option 1 (Measure F.1) – No action
 - Option 2 (Measure F.2) – A vessel’s permit baseline is based on the maximum number of DAS used (without regard to the annual allocation or carry-over DAS) in any fishing year between FY 1996 and FY 2001. Only years in which at least 5,000 pounds of regulated groundfish were landed are considered in this calculation. Fifty-five percent are defined as Category A DAS, and forty-five percent are defined as Category B DAS. The percentage of Category A DAS are reduced in FY 2006 and FY 2009.
 - Option 3 (Measure F.3) - A vessel’s permit baseline is based on the maximum number of DAS used in any fishing year between FY 1996 and FY 2001. Only years in which at least 5,000 pounds of regulated groundfish were landed are considered in this calculation. Fifty-five and a half (55.5%) percent are defined as Category A DAS, and forty-five and a half (45.5%) percent are defined as Category B DAS. The percentage of Category A DAS are reduced in FY 2006 and FY 2009.

5.4.2 Incidental Catch TACs (Measure B)

In order to ensure that any catch (landings and discards) of stocks of concern taken while using a Category B (regular or reserve) DAS does not threaten the mortality objectives of Amendment 13, catches of those stocks taken on a Category B DAS are constrained by a “hard” incidental catch TAC adopted by FW 40A. These TACs are based on a percentage of the overall TAC for the stock of concern. The percentages used, and the incidental catch TACs that result for FY 2005 and 2006, are shown in Table 14.

The incidental catch TACs are allocated to programs developed to use Category B (regular or reserve) DAS where appropriate. The percentage of the TAC allocated to these programs can be adjusted through a management action such as a framework or amendment. Since this action proposes to adopt one additional SAP (the GB Haddock Fishery North of CAI SAP), the allocations made in FW 40A must be

ALTERNATIVES TO THE PROPOSED ACTION

Alternative 3

revised to account for this program. The allocations proposed for this action are shown as percentages of the incidental catch TAC in Table 15.

The GB cod incidental catch TAC is reduced by up to 10 percent in order to allow for the conduct of experiments. This TAC will be released to the Category B DAS programs on May 1 if no applications have been received to use this TAC. This creates a research set-aside of 9.7 mt in FY 2005 and 12.7 mt in FY 2006. Current estimates of the revised GB cod incidental catch TACs for FY 2005 and FY 2006 are shown in Table 16.

Rationale: The rationale is the same as for Alternative 1, with the exception that this alternative does not adopt the WGOM Closed Area Rod/Reel SAP.

ALTERNATIVES TO THE PROPOSED ACTION
Alternative 3

	Percentage of Total Target TAC	Incidental Catch TAC	
		2005	2006
GOM cod	Two	127	149
GB cod	Two (less ten percent research set aside)	87.3	114.3
CC/GOM yellowtail	Two	25	21
Plaice	Five	181	151
White Hake	Two	76	76
SNE/MA Yellowtail	Five	99	166
SNE/MA Winter Flounder	Five	178	222
Witch Flounder	Five	350	383

Table 14 – Proposed incidental catch TACs for major stocks of concern (mt). TACs are for the fishing year

	Category B (regular) DAS Pilot Program	CAI Hook Gear SAP	CAII Haddock SAP	WGOM Haddock SAP	GB Haddock North of CAI SAP
GOM cod	100	NA	NA	NA	NA
GB cod	45	13	34	NA	8
CC/GOM yellowtail	100	NA	NA	NA	NA
Plaice	100	NA	NA	NA	NA
White Hake	100	NA	NA	NA	NA
SNE/MA Yellowtail	100	NA	NA	NA	NA
SNE/MA Winter Flounder	100	NA	NA	NA	NA
Witch Flounder	100	NA	NA	NA	NA

Table 15 – Proposed allocation of incidental catch TACs for major stocks of concern to Category B DAS programs (shown as percentage of the incidental catch TAC)

	FY 2004	FY 2005	FY 2006
Category B (regular) DAS Pilot Program	39.5	39.3	51.4
CAI Hook Gear Haddock SAP	12.6	11.3	14.9
CAII Haddock SAP	27	29.7	38.9
Haddock Fishery North of CAI SAP	0	7	9.1
GB Cod research set aside	0	9.7	12.7

Table 16 – Current estimates of the GB cod incidental catch TACs for FY 2005 and 2006

	FY 2004	FY 2005	FY 2006
Category B (regular) DAS Pilot Program	97	127	149

Table 17 – Current estimates of the GOM cod incidental catch TACs for FY 2005 and FY 2006

5.5 *Alternative 4*

5.5.1 Summary

This alternative consists of the specific measures listed below. For the specific details of each measure, refer to Alternative 1 except where noted.

- Measure A.1: Changes to the DAS leasing and transfer conservation tax.
 - Option 1 (Measure A.1.a) – 20 percent conservation tax for Category A and B DAS, 90 percent conservation tax for Category C DAS under the DAS transfer program. No conservation tax for leased DAS.
 - Option 2 (Measure A.1.b) - 20 percent conservation tax for Category A and B DAS, 90 percent conservation tax for Category C DAS under the DAS transfer program. 20 percent conservation tax for DAS transferred under the leasing program.
 - Option 3 (Measure A.1.c) - 10 percent conservation tax for Category A and B DAS, 90 percent conservation tax for Category C DAS under the DAS transfer program. 10 percent conservation tax for DAS transferred under the leasing program.
- Measure B: Incidental catch TACs. The specifics of this measure are described below.
- Measure C: Special Access Programs
 - GB Haddock Fishery SAP North of CA I (Measure C.1)
 - Western Gulf of Maine Closed Area Rod/Reel SAP (Measure C.2)
 - Participants Option 1 – vessel with limited access multispecies permits (including Handgear A permits)
 - Participants Option 2: Vessel with limited access DAS permits
 - CAII Yellowtail Flounder SAP (Measure C.3)
- Measure F: Change to DAS baseline calculation
 - Option 1 (Measure F.1) – No action
 - Option 2 (Measure F.2) – A vessel’s permit baseline is based on the maximum number of DAS used (without regard to the annual allocation or carry-over DAS) in any fishing year between FY 1996 and FY 2001. Only years in which at least 5,000 pounds of regulated groundfish were landed are considered in this calculation. Fifty-five percent are defined as Category A DAS, and forty-five percent are defined as Category B DAS. The percentage of Category A DAS are reduced in FY 2006 and FY 2009.
 - Option 3 (Measure F.3) - A vessel’s permit baseline is based on the maximum number of DAS used in any fishing year between FY 1996 and FY 2001. Only years in which at least 5,000 pounds of regulated groundfish were landed are considered in this calculation. Fifty-five and a half (55.5%) percent are defined as Category A DAS, and forty-five and a half (45.5%) percent are defined as Category B DAS. The percentage of Category A DAS are reduced in FY 2006 and FY 2009.

5.5.2 Incidental Catch TACs (Measure B)

This measure is identical to the measure in Alternative 1. The tables from that alternative are repeated below for clarity and reflect the adoption of two new SAPs and a research set-aside for GB cod.

Rationale: The rationale is the same as for Alternative 1.

	Percentage of Total Target TAC	Incidental Catch TAC	
		2005	2006
GOM cod	Two	127	149
GB cod	Two (less ten percent research set aside)	87.3	114.3
CC/GOM yellowtail	Two	25	21
Plaice	Five	181	151
White Hake	Two	76	76
SNE/MA Yellowtail	Five	99	166
SNE/MA Winter Flounder	Five	178	222
Witch Flounder	Five	350	383

Table 18 – Proposed incidental catch TACs for major stocks of concern (mt). TACs are for the fishing year

	Category B (regular) DAS Pilot Program	CAI Hook Gear SAP	CAII Haddock SAP	WGOM Haddock SAP	GB Haddock North of CAI SAP
GOM cod	95	NA	NA	5	NA
GB cod	45	13	34	NA	8
CC/GOM yellowtail	100	NA	NA	NA	NA
Plaice	100	NA	NA	NA	NA
White Hake	100	NA	NA	NA	NA
SNE/MA Yellowtail	100	NA	NA	NA	NA
SNE/MA Winter Flounder	100	NA	NA	NA	NA
Witch Flounder	100	NA	NA	NA	NA

Table 19 – Proposed allocation of incidental catch TACs for major stocks of concern to Category B DAS programs (shown as percentage of the incidental catch TAC)

	FY 2004	FY 2005	FY 2006
Category B (regular) DAS Pilot Program	39.5	39.3	51.4
CAI Hook Gear Haddock SAP	12.6	11.3	14.9
CAII Haddock SAP	27	29.7	38.9
Haddock Fishery North of CAI SAP	0	7	9.1
GB Cod research set aside	0	9.7	12.7

Table 20 – Current estimates of the GB cod incidental catch TACs for FY 2005 and 2006

ALTERNATIVES TO THE PROPOSED ACTION
Independent Measures

	FY 2004	FY 2005	FY 2006
Category B (regular) DAS Pilot Program	97	120.7	141.5
WGOM Rod/Reel Haddock SAP	0	6.3	7.5

Table 21 – Current estimates of the GOM cod incidental catch TACs for FY 2005 and FY 2006

5.6 Independent Measures

Only those independent measures that differ from the proposed action are listed below.

5.6.1 Permit Baseline Characteristics Downgrade (Measure H)

Permit holders are allowed to make a one-time downgrade of the baseline characteristic of their permit (length, horsepower, gross and net registered tonnage). Only one downgrade is allowed, and all vessel characteristics must be changed to match the characteristics of the vessel that is currently using the permit. This new permit baseline will be used for all future decisions on vessel upgrades, DAS leases, DAS transfers, etc.

Under current regulations, the vessel using a permit can be replaced, but any increase in length, horsepower, gross and net tonnage is limited. Horsepower can only be changed once, and length, gross, and registered tonnage can only be changed once. The proposed measures does not change the replacement vessel restrictions – that is, if the permit was placed on an “upgraded” vessel, it cannot be used again on an upgraded vessel after the baseline characteristics are downgraded. Conversely, if the permit has never been placed on an upgraded vessel, the permit retains its eligibility for an upgrade.

This measure differs slightly from the proposed action, in that it would have applied the permit baseline downgrade to all situations associated with the permit, rather than just for the DAS leasing program.

Rationale: Exchanges of DAS under the DAS transfer and leasing programs are limited by a vessel’s permit baseline characteristics. For vessels with “large” characteristics, this limits the number of candidate permits with which to conduct an exchange. In some cases, vessels are actually smaller than the permit baseline attached to the vessel. This measure would allow permit owners to make a one-time downgrade of their permit so that the permit baseline matches the characteristics of the vessel using the permit. All characteristics would have to be downgraded to the actual physical characteristics of the vessel, and this change cannot be reversed. This measure will facilitate use of the DAS transfer and leasing programs for those vessels and will reduce the amount of latent fishing capacity inherent in those permits. It is also likely to increase active fishing effort.

5.6.2 DAS Credit for Standing By Entangled Whales (Measure I)

Limited access groundfish vessels may be provided a DAS credit of up to twelve hours for standing by an entangled whale. The requirements for receiving this credit are as follows:

- (1) The vessel must notify the U.S. Coast Guard of the entangled whale. The vessel must also be in contact with the Center for Coastal Studies, either directly or through the Coast Guard.
- (2) Only one vessel at a time will receive credit for standing by the whale. It is permissible for a vessel to hand off the activity to a second vessel while waiting for the rescue team to arrive. Additional vessels could also receive credit for standing by the whale.
- (3) Ideally, the vessel would remain on scene until the rescue team arrives, but this may not be possible in all circumstances. The stand-by vessel must be available to answer questions on the condition of the animal, possible species identification, severity of entanglement, gear information, etc.
- (4) Credit will be granted for a verified report whether or not the rescue team arrives on scene or a rescue is attempted.
- (5) This provision applies to all species of live whale, whether alive or dead.

This measure differs from the proposed action because it limits the DAS adjustment to a maximum of twelve hours and has different notification requirements.

Rationale: In 2003 there were thirty-four confirmed reports of large whale entanglements and only nine whales disentangled. Attempts were not made on eleven whales because they could not be relocated after the initial report. With the DAS reductions in Amendment 13, groundfish fishing vessels are reluctant to take the time to provide information on entangled whales because they lose valuable DAS time while standing-by. This measure will provide a limited DAS credit to vessels that report and stand-by entangled whales. The credit is given whether the whale is alive or dead since valuable information can be obtained from a carcass on the cause of death, condition of the whale, etc. – information that is especially important for northern right whales. (This measure differs from the proposed action because it limits the maximum credit that can be received to twelve hours).

5.6.3 Herring Vessel Interactions With Regulated Groundfish (Measure J)

Herring purse seine and mid-water (both single and paired trawls) are allowed to fish in all regulated mesh areas. Recently obtained information suggests that herring vessels catch regulated groundfish. This measure considers options that would help restrict interactions between herring fishing and regulated groundfish, or would help collect information on the nature of the problem. If one of these options is not approved, then herring vessels would continue to be allowed to fish in all groundfish mortality closed areas and no additional requirements would be imposed to collect additional information.

Option 1 (Measure G.1): Mid-water trawl vessels (including both single and paired mid-water trawl vessels) are not allowed to fish for herring in the following year round groundfish mortality closed areas: the Western Gulf of Maine Closed Area, the Cashes Ledge Closed Area, the Nantucket Lightship Closed Area, Closed Area I, and Closed Area II. Vessels may transit these areas if all gear is properly stowed.

Rationale: Several enforcement and observer reports have documented that mid-water trawl vessels catch and discard groundfish. This measure would restrict these vessels from the groundfish mortality closed areas in order to provide protection to groundfish in those areas.

ALTERNATIVES TO THE PROPOSED ACTION
Independent Measures

Option 2 (Measure G.2): Vessels are not allowed to fish for herring using purse seines or mid-water trawl gear (including both single and paired mid-water trawl vessels) in the following groundfish year round mortality closed areas: the Western Gulf of Maine Closed Area, the Cashes Ledge Closed Area, the Nantucket Lightship Closed Area, Closed Area I, and Closed Area II. Vessels may transit these areas if all gear is properly stowed.

Rationale: Several enforcement and observer reports have documented that mid-water trawl vessels catch and discard groundfish. In addition, observer reports have documented that purse seine vessels can catch groundfish or other bottom dwelling species. This measure would restrict these vessels from the groundfish mortality closed areas in order to provide protection to groundfish in those areas.

Option 3 (Measure G.3): Herring purse seine vessels are not allowed to fish in the following groundfish year round mortality closed areas: the Western Gulf of Maine Closed Area, the Cashes Ledge Closed Area, the Nantucket Lightship Closed Area, Closed Area I, and Closed Area II. Vessels may transit these areas if all gear is properly stowed.

Rationale: Observer reports have documented that purse seine vessels can catch groundfish or other bottom dwelling species. This measure would restrict these vessels from the groundfish mortality closed areas in order to provide protection to groundfish in those areas.

Option 4 (Measure G.4): Herring fishing vessels with Category 1 permits must call NMFS and request an observer at least 72 hours in advance of any herring fishing trip in any area. If NMFS is unable to provide an observer and an observer waiver is granted, the vessel must notify NMFS enforcement of the time and place of landing prior to crossing the VMS demarcation line so that enforcement agents can attempt to observe the offload. This measure differs slightly from the proposed action in that the proposed action imposes the notification requirement only for vessels fishing in the GOM or GB regulated mesh areas. This measure was adopted as the proposed action.

Rationale: There is insufficient information available to estimate regulated groundfish discard rates in the herring fishery. This option will facilitate collection of additional information through increased observer coverage and witnessing of offloads by enforcement. It is recognized that enforcement agents will not be able to witness every offload due to resource limitations, but the notification requirement will make it possible for more offloads to be observed. In addition to these requirements, the Council will ask NMFS to have observers record information on footrope height above the bottom and document the reason for any tows not brought on board the vessel.

Option 5 (Measure G.5): No action.

5.6.4 Category B DAS Observer Requirement (Measure L)

Any vessel that cannot carry an observer cannot participate in any authorized SAP or the Category B (regular) DAS Pilot Program.

Rationale: Effective monitoring of the use of Category B DAS requires observer coverage. If vessels are unable to carry an observer, their catches while using Category B DAS could not be monitored. This measure will preclude vessels that are too small or have insufficient accommodations to carry observers from participating in the SAP.

5.7 Other Measures Not Adopted

Amendment 13 was submitted by the Council in December 2004. The Council immediately began preparation of a framework action (FW 40) in order to implement measures to target healthy stocks using Category B DAS. As this action progressed, the Council considered several suggested programs. Eventually the Council decided to submit two separate management actions – FW 40A and FW 40B. The measures listed below were discussed by the Council but not included in either action. They may be considered again by the Council in the future.

The Council rejected some of these measures because after preliminary review they were determined not to be reasonable. These measures are described as “considered but rejected.” The Council has decided to defer consideration of other measures to a later action; these are described as “considered but delayed.” A brief summary of these measures is provided below.

5.7.1 Measures Considered but Rejected

5.7.1.1 Directed Lobster Trawl Fishery SAP

The Council received a request to create a SAP for trawl vessels to target lobster offshore. The Council rejected this alternative because this is a lobster management issue and the Council does not manage lobster.

5.7.1.2 SNE/MA Winter Flounder SAP

The Council received a request to develop a SAP that would allow vessels to target winter flounder off western Long Island and New Jersey. The Council rejected this alternative because SNE/MA winter flounder is overfished and as such is not a suitable target for an SAP.

5.7.2 Measures Considered but Delayed

These measures were not included in FW 40B but may be considered for a future action. Any impacts – including cumulative impacts – will be analyzed in the action proposed these measures.

5.7.2.1 Large Mesh Skate and Monkfish Gillnet SAPs

In some cases, vessels targeting monkfish or skates using gillnets must use a groundfish DAS. These proposed SAPs would allow vessels using large mesh to meet this requirement using Category B DAS. The Council will consider these SAPs in a future action, noting that the Category B (regular) DAS pilot program, if approved, will allow this activity. In addition, it may be more appropriate to have these fisheries defined as exempted fisheries so they are not subject to groundfish regulations.

5.7.2.2 SNE/MA Scup/Black Sea Bass/Winter Flounder SAP

This SAP would allow vessels fishing for scup, black sea bass, and fluke to retain some winter flounder if they use groundfish mesh and a Category B DAS. This SAP would apply to the area between 72-30W and 70W longitude. The Council will consider this SAP in a future action.

5.7.2.3 WGOM Haddock Gillnet SAP

The Council considered allowing vessels using gillnet gear to fish with 6-inch mesh in the area during certain time periods in order to target GOM haddock. The Council did not submit this SAP

ALTERNATIVES TO THE PROPOSED ACTION

Other Measures Not Adopted

because there is a possibility that vessels using this gear may also catch cod. The Council recommended that an experimental fishery be conducted to determine if this SAP is feasible. The Council may consider this SAP in the future.

5.7.2.4 Shrimp Trawl Access to the WGOM Habitat Closed Area

Amendment 13 restricted mobile bottom tending gear from certain areas to minimize, to the extent practicable, the adverse effects of fishing on EFH. One of these areas includes most of the WGOM closed area. The Council will consider allowing shrimp trawls into all or part of this area in a future action.