

6.2.6.4.1.4 *Economic Impacts on Vessels and Small Businesses*

The Small Business Administration (SBA) defines a small business entity in the commercial fishing industry as a firm with annual gross revenues up to \$3 million. In practice, although some firms own more than one vessel, the number of vessels is a reasonable proxy for the number of small business entities.

The scallop industry directly affected by the proposed action is composed primarily of small business entities. The 1999 Scallop Fishery SAFE report (NEMFC 1999b) includes extensive information on the vessels participating in the scallop fishery. Section 3.0 of the report provides information on the landings, revenues of the vessels by species, by gear sector, by major port, and state. A discussion of the day-at-sea utilization was provided in Section 3.2.3 and the processing and the marketing sectors in Section 3.2.5 of the SAFE report.

There were 365 limited access scallop permits issued during the most recent complete season (Table 29 in the SAFE report). Over 100 permits were associated with vessels that were either inactive or had Confirmation of Permit Histories. If their participation in the scallop fishery remained unchanged, these vessels would not be affected by regulations during the 2000 season. Twenty-six of the remaining active vessels were either part-time or occasional. Based on their small days-at-sea allocation, it seems unlikely that the occasional permit category could be significantly impacted by sea scallop regulations. Almost all of the active part-time permit vessels, however, depended on scallops for least 5 percent of their 1998 revenues (see Section 5.2.2 of SAFE report, for the composition of revenues for part-time and occasional boats). In contrast, dependence on scallop revenues was at least 70 percent or more of total revenues for 167 out of 206 active full-time boats with an average of 78% for all full-time boats (Tables 17 and 18 in the 1999 SAFE report).

The Regulatory Flexibility Act (RFA) requires government agencies to evaluate the financial impacts of regulations on small businesses. According to current NMFS guidelines, if more than 20 percent of the small businesses in a particular industry are affected by the regulations, the regulations are considered to have an impact on a "substantial number" of these entities. Since the proposed regulations will affect all vessels with a limited access scallop permit, the "substantial number" criterion of RFA would be met.

Furthermore, the economic impacts on small business entities are considered to be "significant" if the proposed regulations are likely to cause any of the following:

- a) a reduction in annual gross revenues by more than 5 percent;
- b) an increase in total costs of production by more than 5 percent as a result of an increase in compliance costs;
- c) an increase in compliance costs as a percent of sales for small entities at least 10 percent higher than compliance costs as a percent of sales for large entities;
- d) costs of compliance that represent a significant portion of capital available to small entities, considering internal cash flow and external financing capabilities; or
- e) a number (two percent as a "rule of thumb") of small businesses being forced to cease business operations.

Since the proposed action is submitted as a final rule, an RFA and a threshold analysis are not required. The information needed for such analyses are presented here, however, in the context of the economic impacts on vessels and other small business entities.

Impacts on vessels

The proposed DAS options included in this framework will have positive economic impacts on the vessels compared to the status quo with no access. The results are shown in Table 37 above and are summarized as follows:

- ◆ The revenues per average full-time vessel will stay almost constant with access to closed areas.
- ◆ This result is valid only for the full-time vessels that use their allocations in full. For example, during the 1998 fishing year, only 159 out of the 215 full-time vessels used more than 120 DAS to fish for scallops. If a full-time vessel used only part of its allocation under status quo conditions (80 days-at-sea for example), but increases its activity to 120 days-at-sea with access to the closed areas, its revenues would increase with the proposed access.
- ◆ The operational and trip costs per vessel will be lower with the area access. Both the profits per vessel and crew shares are estimated to increase by more than 5 percent under the proposed access to the closed areas.
- ◆ The economic viability of the scallop vessels is examined by break-even concept, which estimates the number of days-at-sea necessary to cover total variable and fixed costs of a vessel. The break-even days-at-sea will be below the days-at-sea allocations for an average full-time vessel both for the status quo and for the area access options with 120 days-at-sea. The access to the closed areas will also slightly improve the break-even days-at-sea point for an average vessel from 81 to 79.
- These results are valid if the import prices, costs of fuel and other variable costs per DAS stayed constant at their 1998 levels. The results are also contingent upon the realization of the expected catch rates.
- Although average break-even even days-at-sea is estimated to be about 80 days-at-sea, the actual break even levels would vary from this average depending on the size, horse-power and activity (DAS-used) of the vessels, and also depending on the captain skills, crew size and the lay system.

As discussed in Section 3.2.2 of the 1999 SAFE report (NEFMC 1999b), the majority of the scallop vessels, had a high dependence on the scallop revenues, whereas others earned income from other fisheries as well. As Table 14 in the SAFE report showed, 130 full-time vessels that used 90 percent or more of their allocation (on the average 143 DAS) in 1998 derived on the average 87.6 percent of their revenues from scallops. Almost all full-time vessels earned, however, some portion of their income from monkfish as a bycatch, which averaged about \$250 per DAS. Including the monkfish revenues improves the break-even points, although not significantly, as shown in Table 37.

Again, the results of this analysis should be interpreted with caution:

- The break-even-even figures shown in Table 37 are estimated for a vessel with a HP and GRT equal to the fleet average.
- The estimates would change if the landings per DAS, import prices, and a variety of other factors that affect operational (such as the cost of fuel) and fixed costs change.
- As a result, the break-even estimates will be more useful in comparing the proposed alternative with the status quo rather than indicating absolute points for financial viability.

Impacts on other small business entities

The processors, wholesaler and retailers, while not directly subject to the regulations, will still be indirectly affected through the increase in the domestic harvest of sea scallops. The Scallop Safe Report (NEFMC 1999b) provides information on dealers and processors by region, state or port in Sections 3.2.5.2 through 3.2.5.4, and Section 3.3 (see also Tables 25 through 27 in these sections). Only 240 out of the 371 dealers from Northeast region purchased Atlantic sea scallop during the 1998 fishing season. Three quarters of these dealers were from New England, but Maine dealers had relatively little volume. Purchases are concentrated among a relatively few dealers, with 10 percent of the dealers buying 90 percent of the sea scallop meats. Sea scallop purchases amounted to at least 50 percent of total fish purchases by 50 dealers. These results overstate dependence on the US sea scallop fishery to the extent that dealers rely on imports and do not report purchases of non-regulated species.

During the 1998 calendar year, 25 processing companies earned about \$57 million in gross revenues from the sale of domestic and imported scallop products. Massachusetts and Virginia were the leading states.

Sea scallop marketing is mostly regional involving restaurants, fish markets, super markets and institutions. Quantitative information is lacking, however, on the number of wholesalers who sell scallop products.

The proposed DAS access is expected to have positive economic impacts on the scallop dealers, processors and wholesalers by increasing the domestic supply of the scallops to these entities. On the other hand, the lack of detailed data, particularly the level of imports/exports associated with the purchase of sea scallops, prohibits a quantitative impact assessment of these sectors.

Regional impacts

Three major sea scallop ports, New Bedford (MA), Cape May (NJ) and Norfolk (VA) accounted 83 percent of the total sea scallops landings in the 1998 fishing year. Similarly, among the states along the Atlantic coast from Maine to North Carolina, three states, Massachusetts, New Jersey and Virginia were the leading scallop producing states accounting 89 percent of the total 1998 fishing year landings. Overall, Massachusetts landed 47 percent, Virginia 39 percent, and New Jersey 13 percent of the scallops, whereas North Carolina landed the remaining 10 percent. Consequently, the access to the closed areas will have positive impacts on the economies of these major ports and the corresponding states by increasing the scallop landings and revenues.

6.2.6.4.2 Non-preferred options: Summary of the results

The economic impacts of the non-preferred options are summarized in the tables below and in the following bullets:

Table 38. Trip allocations and conservation-neutral day-at-sea tradeoffs for accessing groundfish closed areas in fishing year 2000.

Trip Limits		Closed Area		
		II	Closed Area 1	NLS
8000	Number of trips	4	2	2
	DAS trade-off	10	7	8
10000	Number of trips	3	2	1
	DAS trade-off	12	9	10
12000	Number of trips	3	1	1
	DAS trade-off	14	11	12

Trip Limits		Closed Area II	Closed Area 1	NLS
15000	Number of trips	2	1	1
	DAS trade-off	17	14	15
18000	Number of trips	2	1	0
	DAS trade-off	21	18	0

Table 39. Gross and net revenues per DAS (allocation).

Trip Limits		Closed Area II	Closed Area 1	NLS	outside
8000 lbs	Gross revenues	4,244	6,704	5,806	5,733
	Net revenues	3,663	6,068	5,176	4,857
10000 lbs	Gross revenues	4,397	6,486	5,777	5,635
	Net revenues	3,844	5,929	5,202	4,759
12000 lbs	Gross revenues	4,548	6,400	5,807	5,655
	Net revenues	3,997	5,894	5,269	4,780
15000 lbs	Gross revenues	4,661	6,261	5,784	5,638
	Net revenues	4,154	5,803	5,282	4,762
18000 lbs	Gross revenues	4,651	5,987	-	5,696
	Net revenues	4,234	5,584	-	4,820

Table 40. Summary of economic benefits.

	No Access	Access to Closed Area I, Closed Area II, and the Nantucket Lightship Area Trip limits (in pounds)				
		8000	10000	12000	15000	18000
DAS per vessel	120	120	120	120	120	120
Landings (million pounds)	27.8	32.6	32.9	32.6	32.8	31.3
Ex-vessel Price	5.45	5.30	5.25	5.25	5.25	5.32
Operational costs (million \$)	31	30	30	29	28	28
Total Revenue (million \$)	152	173	173	171	173	167
Consumer Surplus (million \$)	36	50	50.8	49.8	50.6	46.0
Producer Surplus (million \$)	101	123	124.2	123.0	126.0	120.6
Net Benefits (million dollars)	137	173	175	173	177	167
Employment (Crew*DAS)	188,958	184,849	181,465	179,586	173,723	171,599

- Under these options, the revenues per DAS from Closed Area I and the Nantucket Lightship Area will be higher than the levels in the open area.
- Because of the DAS-offs, however, a vessel can obtain higher gross and the net revenues per day-at-sea by fishing in the open area, rather than fishing in the Closed Area II.
- The gross and net revenues per day-at-sea for the Nantucket Lightship Area does not seem to change with the trip limit option in any significant way. If the trip limit is set at 18,000, however, no trips can be allowed to this area according to the depletion model results.
- For Closed Area I, two trips with an 8,000 pound trip limit seem to generate highest revenues per day-at-sea.
- The ex-vessel prices are estimated to be lower, about \$5.25 per pound with access to the closed areas. Without access, the price will be higher, \$5.45 per pound (Table 42).

- The landing are estimated to increase from 27.8 million pounds to about \$32 to \$33 million pounds with access to the closed areas.
- The total fleet revenues will increase about \$15 to \$20 million with access to the closed area.
- Consumer surplus will increase by about \$10 to \$14.5.
- The increase in the producer surplus will be around \$20 to \$25 million.
- The net national benefits will increase by \$30 to \$40 million with access.
- The employment will decline with access to the closed areas between 2% to 9%.
- Among the trip limit options, the 15,000 pounds, maximizes the net benefits, producer and consumer surpluses.
- These results will be not valid, however, if vessels do not choose to fish in the Closed Area II, but continue fishing in the open areas to obtain higher revenues per day-at-sea. This would impose further costs in the long-run, as the scallops in the open areas continue to be overfished.

6.2.6.4.2.1 *Biological data used to estimate net benefits for closed area access*

Table 41 summarizes the data obtained from the depletion model results, shows that at the given trip limits, number of trips and DAS trade-offs, the total landings from the closed areas will fall short of the total TAC for these areas by about 4 to 8 million pounds.

Table 41. Area opening options, landings, and DAS-used

Trip Limits		Closed Area II opt.1	Closed Area 1	NLS	Outside	All areas	Closed Areas only
	TAC	6.60	7.02	5.48	0		19.10
	Meat Count	22.50	14.10	15.00	27.05		
8000	Number of trips	4	2	2			
	DAS trade-off	10	7	8			
	DAS-used per full-time vessel	40	14	16	50		
	Landings/DAS	1246	1572	1389	1146		
	Landings/DF	1626	3129	2478	1150		
	Landings, million lbs	5.7	4.8	4.7	17.4	32.6	15.2
	Total DAS-used	4,727	3,045	3,398	15,237	26,407	11,170
10000	Number of trips	3	2	1			
	DAS trade-off	12	9	10			
	DAS-used per full-time vessel	36	18	10	56		
	Landings/DAS	1,356	1,746	1,523	1,133		
	Landings/DF	1,698	3,129	2,478	1,124		
	Landings, million lbs	5.3	5.8	3.1	18.6	32.9	14.3
	Total DAS-used	4,049	3,341	2,055	16,479	25,924	9,444.5
12000	Number of trips	3	1	1			
	DAS trade-off	14	11	12			
	DAS-used per full-time vessel	42	11	12	55		
	Landings/DAS	1,430	1,885	1,627	1,131		
	Landings/DF	1,488	3,129	2,478	1,119		
	Landings, million lbs	6.4	3.7	3.7	18.9	32.6	13.7
	Total DAS-used	4,705	1,965	2,249	16,736	25,655	8,919

Trip Limits		Closed Area II opt.1	Closed Area 1	NLS	Outside	All areas	Closed Areas only
	TAC	6.60	7.02	5.48	0		19.10
	Meat Count	22.50	14.10	15.00	27.05		
15000	Number of trips	2	1	1			
	DAS trade-off	17	14	15			
	DAS-used per full-time vessel	34	14	15	57		
	Landings/DAS	1,536	2,048	1,747	1,132		
	Landings/DF	1726	3129	2478	1122		
	Landings, million lbs	5.20	4.49	4.45	18.70	32.85	14.1
	Total DAS-used	3506	2192	2549	16570	24818	8248
18000	Number of trips	2	1	0			
	DAS trade-off	21	18	0			
	DAS-used per full-time vessel	42	18	0	60		
	Landings/DAS	1647	2173	1883	1112		
	Landings/DF	1707	3129	2478	1082		
	Landings, million lbs	5.5	5.2	0.0	20.6	31.3	10.8
	Total DAS-used	3560	2416	3	18535	24514	5,979

6.2.6.4.2.2 Ex-vessel prices

Estimated ex-vessel prices for each trip limit option are shown in Table 42. Area I and NLS area landings are estimated to have the highest prices, about \$5.8 to \$6.0 per pound, because the meat count is higher in these areas (14 and 15 per pound respectively), compared to Area II (22.5) and open areas (27.5). These prices, however, do not take into account the seasonal variations.

Table 42. Average ex-vessel price per pound.

Trip Limits	Closed Area II	Closed Area 1	NLS	Outside	Total or average
8,000	5.3	5.9	5.8	5.0	5.3
10,000	5.3	5.8	5.8	5.0	5.3
12,000	5.3	5.9	5.8	5.0	5.3
15,000	5.3	5.8	5.8	5.0	5.3
18,000	5.4	6.0	5.9	5.1	5.3

Table 43. Gross and net revenues per DAS (used from allocation).

Trip Limits		Closed Area II	Closed Area 1	NLS	Outside
8000 lbs	Number of trips	4	2	2	
	Gross revenues	4,244	6,704	5,806	5,733
	Net revenues	3,663	6,068	5,176	4,857
10000 lbs	Number of trips	3	2	1	
	Gross revenues	4,397	6,486	5,777	5,635
	Net revenues	3,844	5,929	5,202	4,759
12000 lbs	Number of trips	3	1	1	
	Gross revenues	4,548	6,400	5,807	5,655

Trip Limits		Closed Area II	Closed Area 1	NLS	Outside
	Net revenues	3,997	5,894	5,269	4,780
15000 lbs	Number of trips	2	1	1	
	Gross revenues	4,661	6,261	5,784	5,638
	Net revenues	4,154	5,803	5,282	4,762
18000 lbs	Number of trips	2	1	-	
	Gross revenues	4,651	5,987	-	5,696
	Net revenues	4,234	5,584	-	4,820

6.2.6.4.2.3 Revenues per DAS for each area

Gross and net revenues are estimated using the depletion model results, the DAS-trade offs, number of trips and ex-vessel prices, and trip costs for each area (Table 43). Net revenues per day-at-sea shows gross revenue minus trip expenses. The results are summarized for each trip-limit option shows that

- The revenues per DAS from Closed Area 1 and NLS area will be higher than the levels in the open area.
- Because of the DAS-offs, however, a vessel can obtain higher gross and the net revenues per day-at-sea by fishing in the open area, rather than fishing in the Closed Area II.
- Therefore, it may be less economical for vessels to fish in the Closed area II compared to fishing in open areas after an average fishing effort is spent in these areas. This may cause some vessels to shift their effort from the closed area to the open areas after these levels are reached. The dynamics of the effort shifts between various areas could not be modeled, however. Effort shift to the open areas by many vessels may reduce the landings per days-at-sea from these areas at a faster rate than in the closed areas, again making more economical for vessels to fish in the closed areas. In other words, the gross and net revenues per day-sea at the average levels of effort do not provide sufficient information to predict the overall fishing activity in those areas. Additionally, as pointed out by some scallop fishermen, landing a similar amount of scallops in fewer days in the closed areas compared to the open areas, may provide sufficient incentives for many vessels to continue fishing in the closed areas.
- For these reasons, the revenues and expenses per vessel, total fleet revenues, producer and consumer surpluses and net benefits are estimated assuming that the full-time boats will shift their effort from open areas to the closed areas. In other words, the results are based on the assumption that the full-time vessels will take 3 trips to Closed Area II, 2 trips to Closed Area 1 and one trip to the Nantucket Lightship area.
- The gross and net revenues per day-at-sea for the NLS area does not seem to change with the trip limit option in any significant way. If the trip limit is set at 18,000, however, no trips can be allowed to this area according to the depletion model results.
- For Closed Area I, 2 trips with a 8000 pound trip limit seem to generate highest revenues per day-at-sea.

6.2.6.4.2.4 Producer and Consumer Surpluses and Economic Benefits

Table 44 shows the economic impacts of the trip limit – area access options in terms of fleet revenues, costs, and net national benefits. The first column of Table 44 presents the results with no access

to the closed areas. Table 45 shows the impacts in terms of changes from no access scenario. These impacts relative to the no access option can be summarized as follows:

- The ex-vessel prices are estimated to be lower, about \$5.25 per pound with access to the closed areas. Without access, the price will be higher, \$5.45 per pound. This is because of the increase in landings from 27.8 million pounds to about \$32 to \$33 million pounds with access to the closed areas.
- The total fleet revenues will increase about \$15 to \$20 million with access to the closed areas.
- Consumer surplus will increase by about \$10 to \$14.5.
- The increase in the producer surplus will be around \$20 to \$25 million.
- The net national benefits will increase by \$30 to \$40 million with access.
- The employment as measured by CREW*DAS will decline from about 2% to 9% as total DAS-used declines with the DAS trade-offs applied to the closed area fishing.
- The employment will decline with access to the closed areas between 2% to 9%.
- Among the trip limit options, the 15,000 pounds, maximizes the net benefits, producer and consumer surpluses.

Again, the results presented in Table 44 to Table 46 will be not valid, if vessels do not choose to fish in the Closed Area II, but shifted their efforts to the open areas instead to obtain higher revenues per day-at-sea. This would impose further costs in the long-run, as the scallops in the open areas continue to be overfished.

Table 44. Economic benefits.

	No Access	Access to Closed Area II, I and NLS Trip limits (in pounds)				
		8000	10000	12000	15000	18000
DAS per vessel	120	120	120	120	120	120
Average Meat count	27.0	22.6	22.9	23.3	22.9	24.1
Landings (million pounds)	27.8	32.6	32.9	32.6	32.8	31.3
Ex-vessel Price	5.45	5.30	5.25	5.25	5.25	5.32
Operational costs (million \$)	31	30	30	29	28	28
Total Revenue (million \$)	152	173	173	171	173	167
Consumer Surplus (million \$)	36	50	50.8	49.8	50.6	46.0
Producer Surplus (million \$)	101	123	124.2	123.0	126.0	120.6
Net Benefits (million dollars)	137	173	175	173	177	167
Employment (Crew*DAS)	188,958	184,849	181,465	179,586	173,723	171,599

Table 45. Economic benefits compared to the no access option.

	Access to Closed Area II, I and NLS Trip limits (in pounds)				
	8000	10000	12000	15000	18000
Change compared to no access (million \$)					
Operational costs (million \$)	(0.7)	(1.2)	(1.5)	(2.5)	(2.8)
Total Revenue (million \$)	21.1	21.2	19.5	20.9	15.0
Consumer Surplus (million \$)	13.5	14.5	13.5	14.3	9.7
Producer Surplus (million \$)	22.2	23.2	22.0	25.0	19.6

	Access to Closed Area II, I and NLS				
	Trip limits (in pounds)				
	8000	10000	12000	15000	18000
Net Benefits (million dollars)	35.7	37.7	35.5	39.3	29.3
Percent change compared with no access					
Ex-vessel Price	-2.8%	-3.6%	-3.6%	-3.6%	-2.4%
Operational costs (million \$)	-2.2%	-4.0%	-5.0%	-8.1%	-9.2%
Total Revenue (million \$)	13.9%	14.0%	12.9%	13.8%	9.9%
Consumer Surplus (million \$)	37.3%	39.9%	37.2%	39.3%	26.6%
Producer Surplus (million \$)	22.0%	23.0%	21.8%	24.8%	19.5%
Net Benefits (million dollars)	26.0%	27.5%	25.9%	28.6%	21.4%
Employment (Crew*DAS)	-2.2%	-4.0%	-5.0%	-8.1%	-9.2%

6.2.6.4.2.5 Impacts on Vessels

The impacts of the non-preferred options on vessel revenues, profits and break-even DAS points are shown in Table 46 and summarized below:

- It is assumed that the vessels will also take 3 to 4 trips to Closed Area II, although those trips will be less economical than the trips taken in the open areas.
- As a result of this assumption, and higher price under the status quo option, revenues and profits per vessel are estimated to be higher with no access compared to area access options.
- In terms of revenues per vessel, the trip limit options do not seem to make much difference.
- The 18,000 pounds trip limit option maximizes the profits per vessel, among all the access options. The profits and break-even DAS values are close to that of the no access option.
- Under all options with 120 days-at-sea the break-even points will be (about 81 to 83 DAS) lower than the DAS allocations and the vessels will be financially viable.
- The results presented in the Table 44 to Table 46 will be not valid, if vessels do not choose to fish in the Closed Area II, but shifted their efforts to the open areas instead to obtain higher revenues per day-at-sea.

The results of this analysis should be interpreted with caution:

- The break-even-even figures shown in Table 46 are estimated for a vessel with a HP and GRT equal to the fleet average.
- Thus, some vessels in the scallop fleet will need more days-at-sea, and some will need less than shown in Table 46 to break-even from scallop fishing alone.
- Including the monkfish revenues improves the break-even points, although not significantly, as shown in Table 46.
- The estimates would change if the landings per DAS, import prices, and a variety of other factors that affect operational (such as the cost of fuel) and fixed costs change.
- Therefore, the estimates should be used in comparing the alternatives with each other.

Table 46. Vessel revenues, profits and break-even day-at-sea allocations.

	No	Access to Closed Area II, I and NLS
		Trip limits (in pounds)

		8000	10000	12000	15000	18000
DAS per vessel	120	120	120	120	120	120
Revenue per vessel	672,954	643,188	648,368	642,156	654,224	644,852
Operational per Vessel	137,379	112,480	110,781	108,960	106,018	101,069
Trip Costs per vessel	105,105	86,055	84,756	83,363	81,111	77,325
Crew Shares	298,668	299,857	304,265	301,931	311,423	309,586
Fixed Cost	159,241	159,241	159,241	159,241	159,241	159,241
Profits	77,667	71,609	74,081	72,023	77,542	74,956
Break-even DAS	81	83	82	83	81	82

6.2.6.4.3 Assumptions and Methodology

The economic impacts of the proposed and the non-preferred alternatives were examined using an economic model that combines biological inputs with an annual price model and vessel cost equations.

- ◆ The landings estimates of the area options presented in this section are based on the results of the depletion model. The depletion model, the methods used in determination of the TAC's, number of trips and DAS-trade-off are discussed in Section 6.2.6.1.10.
- ◆ The vessel costs are estimated for an average scallop vessel that has a GRT, HP, and crew size equivalent to the fleet average. Trip and variable costs are estimated in 1997 prices as a function of days-at-sea, GRT, HP and crew. The fixed costs are estimated as a function of GRT. The fixed costs also include the transponder costs, which are estimated to be about \$2,500 to \$2,700 including the message costs based on a five-year amortization of equipment costs. The cost equations were presented in Amendment 7 document, Appendix 4, Section 3.3, and therefore are not included in this document.
- ◆ Scallop revenues are estimated from the projected landings and the annual price model in 1997 real prices. The price model was presented in the 1999 Scallop Fishery Management Plan SAFE Report, in section 5.3.1, and therefore is not included in this document.
- ◆ All the price variables are corrected for inflation and expressed in 1997 prices by deflating current levels by consumer price index (CPI) for food.
- ◆ Disposable income is also expressed in 1997 dollars by deflating nominal values with the GDP implicit deflator.
- ◆ Import prices, and the disposable income are held constant at their 1998 level, but in 1997 constant prices when estimating ex-vessel prices.
- ◆ The maximum crew size is restricted to 7.
- ◆ Crew shares are estimated using a 40/60 lay-system under to which the crew receives 60% of the gross stock and pays for the trip expenses.
- ◆ The opportunity costs of labor are assumed to be equal to average wage rate for 1998-99 for production and non-supervisory workers on private non-farm payrolls. The seasonally

adjusted value is \$13.07 per hour.

- ♦ The results from the proposed area access are compared to the results for status quo management that assumes no access to the closed areas.

6.2.6.4.4 Sources of uncertainty in the analysis

The economic impacts of the closed areas access options were analyzed based on the available information about the vessel costs and characteristics, crew shares, prices, landings and revenues of the scallop vessels. The numerical results of this analysis should be interpreted with caution due to uncertainties about the likely changes in

- factors affecting scallop resource abundance
- fishing behavior
- fixed costs
- variable costs
- import prices
- bycatch and revenues from other fisheries
- the crew share system
- the number of active vessels
- structural changes in ownership
- the composition of fleet in terms of tonnage, HP and crew size of the active vessels
- disposable income and preferences of consumers for scallops
- price differences and premium on small versus large scallops.

The empirical results should be used to compare the management alternatives with each other since a change in the variables listed above will change the numerical results in the same direction in most cases. For example, a decrease in import prices would lead to a decrease in ex-vessel prices and revenues below the levels estimated here. An increase in the disposable income of the consumers will produce the opposite effect. While these changes would affect the absolute levels of net benefits, break-even DAS and so on, the ranking of the alternatives in terms of their impacts on revenues, costs, and net benefits are not expected to change.

6.2.6.5 Social and Community Impacts

National Standard 8 of the MSFCMA states that:

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

A description of the affected human environment is provided in Section 5.2 of Amendment 7 to the Atlantic Sea Scallop FMP and Section E.6.4 of Amendments 5, 7, and 9 to the Northeast Multispecies FMP. Management measures implemented through Framework 11 to the Sea Scallop FMP and Framework 29 to the Multispecies FMP are intended to fall within the scope of the rebuilding programs outlined in both FMPs. In general, the social and community impacts of this Scallop/Multispecies

Framework are short-term in nature, especially since the proposed actions will be effective only until February 29, 2000. The long-term social impacts of this framework adjustment fall within the scope of the impact assessments provided in the respective FMP documents.

6.2.6.5.1 Impacts on the Sea Scallop Fishery

In general, the social and community impacts of this framework adjustment will be positive for the sea scallop fleet and the communities in which the vessels land their product. The proposed action will allow the sea scallop fishery to benefit from a substantial accumulation of scallop biomass in the groundfish closed areas. The magnitude of positive social and community impacts resulting from this action will depend on the magnitude of predicted positive economic impacts for the scallop fleet. In general, revenues for scallop vessels that access the closed areas are projected to increase, and the net economic benefits of the proposed management action are estimated to be positive. Positive social and community impacts are therefore likely.

Scallop vessels that access the closed areas will experience a savings in their trip costs, primarily from making shorter trips than they would in the open areas to catch the same amount of scallops. The impact of shorter trips will be positive for vessel owners, captains, crew, and their families. Not only should shorter trips positively affect the fleet's overall safety, but a decrease in the length of time spent away from home should also increase job satisfaction among most scallop fishermen. Time spent away from home is directly linked to perceptions of job satisfaction within fishing communities. Job satisfaction is a principal sociocultural variable associated with fisheries management that can have numerous impacts on fishermen and the communities in which they live and work (Pollnac and Littlefield, 1983).

The communities likely to benefit most from the proposed action are those with larger scallop vessels that tend to make longer trips to offshore areas (i.e. vessels that have the capability to travel to Closed Area II). These communities are New Bedford, Massachusetts, Cape May, New Jersey, and Hampton/Newport News, Virginia. Due to the distance from shore, smaller scallop vessels are unlikely to travel to Closed Area II. However, smaller scallop vessels in these and other communities should benefit from decreased competition for the scallop resource in the existing open areas. During the 1997-1998 fishing year, 234 vessels landing scallops along the East Coast were Ton Class 3 vessels (100-150 GRT), and 190 were Ton Class 4 vessels (greater than 150 GRT). Of these 234 and 190 vessels, the following landed scallops in the primary ports of interest:

New Bedford, MA:	58 Ton Class 3 (24.8% of Ton Class 3) 107 Ton Class 4 (56.3% of Ton Class 4)
Cape May, NJ:	35 Ton Class 3 (15% of Ton Class 3) 21 Ton Class 4 (11.1% of Ton Class 4)
Hampton/Newport News, VA:	40 Ton Class 3 (17.1% of Ton Class 3) 30 Ton Class 4 (15.8% of Ton Class 4)

Altogether, 56.9% of Ton Class 3 vessels and 83.2% of Ton Class 4 vessels that landed scallops during the 1997-1998 fishing year landed them in the above communities (*Source: Fisheries Statistics Office, NMFS Northeast Regional Office*). Thus, these communities serve the majority of larger scallop vessels, the vessels that are most likely to access Closed Area II and benefit from the increased scallop abundance in that area.

Although there is concern about the potential for the distribution of scallop product to shift towards New England ports, Mid-Atlantic processors and dealers are not likely to experience significant

losses as a result of the proposed action. Since trips to the closed areas may be counted at a higher rate of days-at-sea, some vessels, especially those travelling longer distances to the closed areas (vessels from Hampton, for example), may begin to land their product in ports closer to the closed areas (New Bedford, for example). Some fear that this may result in a shift in product from the Mid-Atlantic area to the Northeast. However, communities in New England contain a greater number of processors and dealers than those in the Mid-Atlantic. In fact, in 1998, 76% of permitted sea scallop dealers were distributed in ports in New England.

The number of permitted sea scallop dealers in these ports in 1998 is as follows (*Source: Amendment 7 to the Sea Scallop FMP*):

New Bedford/Fairhaven, Massachusetts:	40
Boston, Massachusetts:	18
New York, New York:	18
Naragansett/Wakefield, Rhode Island:	14
Gloucester, Massachusetts:	13
Portland, Maine:	13
Hampton/Newport News, Virginia:	8
Beaufort/Moorehead City, North Carolina	7
Point Pleasant/Barnegat Light/Belford, New Jersey:	6
Rockland, Maine:	6
Provincetown, Massachusetts	5
Wellfleet, Massachusetts	5
Deer Isle, Maine	5
Southwest Harbor, Maine	5

According to the 1997 Processed Products Report, the number of processors in each state that handled sea scallops during 1997 is as follows (*Source: Amendment 7 to the Sea Scallop FMP*):

Connecticut:	1
Maine:	4
Maryland:	4
Massachusetts:	7
New Hampshire:	1
New Jersey:	1
North Carolina:	1
Rhode Island:	1
Virginia:	1

Because the primary form of processing sea scallops is shucking the scallop meat from the shell at sea, most dealers simply distribute fresh scallops (except in a few smaller, specialized markets). Consequently, scallop revenues are less than ten percent of total revenues for most processors. Those processors with a higher level of dependence often import some or all of their scallops. Therefore, it is unlikely that those processors and dealers located in communities throughout the Mid-Atlantic will experience losses in revenues from a shift in sea scallop product to New England ports. In addition, several major scallop-processing firms are vertically integrated; the firms own their vessels and shoreside facilities, and they have distribution channels within the company. Vertically integrated firms are not likely to be negatively impacted by the proposed action because their vessels will continue to operate in conjunction with their firms as they have in the past.

It is important to note that any potential negative impacts on processors and dealers in the Mid-Atlantic could be mitigated either by not including steaming time in the calculation of days-at-sea for trips

to the re-opened areas or by implementing a demarcation line, east of which days-at-sea would begin to be counted on trips to the re-opened areas. This could minimize any negative impacts experienced by communities in the Mid-Atlantic region resulting from a shift in product from Mid-Atlantic shoreside facilities to New England shoreside facilities. Vessels from New Jersey and Virginia may be more likely to return to their home port to unload their product because it would not cost them as many days-at-sea.

Another aspect of the proposed action that is likely to generate positive social and community impacts is the process through which the framework adjustment was developed (depending on the selected options). The scientific partnership between the Northeast Fisheries Science Center, the Center for Marine Science and Technology (CMAST), and the Fisheries Survival Fund resulted in groundbreaking collaborative research efforts between scientists and the fishing industry. Data for Closed Area II was collected through the hard work of six fishing vessels that participated in an experimental fishery. Because the affected communities were involved in the information gathering and decision making processes, management measures are likely to be more accepted, and scientific research is likely to be perceived as more credible. Fishermen who believe that the process was fair and constructive should experience increased job satisfaction, and their perception of the rules and the process through which the rules were developed is likely to be positive.

In summary, the short-term social impacts of the proposed action are likely to be positive for sea scallop vessels, ports, and communities. Scallop vessels that access the closed areas should experience increased revenues and decreased costs for the next fishing year. Changes in the structure of the sea scallop fleet and fishery are not expected from the proposed action. If any changes in fishery structure occur, they will probably be positive for those either accessing the abundant scallop resource in the closed areas, or those experiencing decreased competition for the scallop resource in the open areas. Impacts on job satisfaction will be positive and will result primarily from increased income for participating vessels.

6.2.6.5.2 Impacts on the Multispecies and Monkfish Fisheries

In general, any negative short-term social impacts of the proposed action on the groundfish and monkfish fleets are likely to result from decreased prices for species caught as bycatch by scallopers in the closed areas. It is predicted that if scallopers land higher amounts of groundfish or monkfish bycatch than they have in the past, the price for those species will decrease, primarily because of increased supply. This depends on the trip limit option the Council selects. The primary species of concern are flounder species like Georges Bank yellowtail flounder, winter flounder, windowpane flounder, and monkfish; the species comprising the highest percentages of bycatch in the scallop experimental fishery in the groundfish closed areas. However, it is unknown whether scallop vessels will land more groundfish than they have in the past. Historically, the proportion of groundfish landings by scallop vessels has been low.

The extent of long-term negative social and community impacts resulting from the proposed action will depend on several factors, including both the magnitude and impact of groundfish bycatch by scallop vessels in the closed areas. While scallop vessels are projected to catch some amount of groundfish (primarily flatfish) and monkfish bycatch as they access closed areas to fish for scallops, the impact of this additional mortality on rebuilding plans cannot be fully quantified at this time. Even if groundfish/flatfish landings by scallopers do not increase as a result of the proposed action, the added mortality could affect the rebuilding plans for these species. Further, if groundfish and monkfish landings by scallopers are not controlled as anticipated under the proposed action and the Georges Bank yellowtail flounder TAC is exceeded for the 1999 fishing year, the Council must take action to reduce fishing mortality to sustainable levels that will promote stock rebuilding consistent with the objectives of the management plans, which could mean additional groundfish or monkfish management measures and/or a delay in the rebuilding of the stock to a sustainable level.

The fear exists in several fishing communities that the cost of scallop access to the closed areas will be borne by the groundfish and monkfish fleets. Since the implementation of Amendment 5, the New England groundfish fleet has been greatly restricted in order to rebuild overfished species of groundfish, including yellowtail flounder and winter flounder. Groundfish fishermen fear that groundfish bycatch by scallopers in the closed areas will delay the rebuilding schedules for these species, ultimately resulting in increased costs and a further delay of benefits for the groundfish fleet. Currently, this concern is most prevalent in communities with a substantial number of vessels that target Georges Bank yellowtail flounder. The community with the largest yellowtail flounder fleet is also the community with the largest scallop fleet: New Bedford, Massachusetts. During the 1997-1998 fishing year, 142 vessels landed Georges Bank yellowtail in New Bedford, almost 66% of the total 216 vessels that landed any amount of Georges Bank yellowtail that year. In terms of quantity, over 89% of all Georges Bank yellowtail flounder for the 1997-1998 fishing year was landed by these 142 vessels in the port of New Bedford. The concerns and impacts for monkfish are similar, but unquantifiable. Additional regulations, if needed to counteract a higher monkfish bycatch in the closed areas, would more heavily impact the communities of Portland, ME; Gloucester, MA; Chatham, MA; and New Bedford, MA.

As the scallop fleet accesses the closed areas, these negative social impacts may manifest themselves in the form of social and community conflict, mostly in the port of New Bedford where there is a large proportion of both scallop, Georges Bank flatfish, and monkfish vessels. Divisions among different sectors of the New Bedford fleet have been documented in the past (Amendment 7 to the Sea Scallop FMP), and increased tension among differing user groups can be expected if bycatch by scallopers in the closed areas affects groundfish rebuilding or future monkfish regulations.

6.2.6.5.3 Limiting Factors

Several outstanding issues relating to the proposed action could affect the nature and extent of its social and community impacts. Currently, these factors limit the ability to predict and assess the social and community impacts resulting from measures proposed in this framework adjustment. Several management alternatives are presented for Council consideration. As the Council selects final management measures for inclusion in this framework, the following factors may influence the nature and extent of the expected social and community impacts:

Opening of the Nantucket Lightship Closed Area for Scallop Vessels

If the Nantucket Lightship Area (NLSA) also is opened for scallop fishing, then smaller scallop vessels will have the opportunity to access the area and benefit from the increased abundance of scallops.

This could spread the distribution of benefits more evenly across a greater number of fishing communities.

The opening of the NLSA to scalloping would lead to increased mortality on groundfish species like southern New England yellowtail flounder. Since the Groundfish PDT determined that southern New England yellowtail flounder cannot support increased fishing pressure at this time regardless of gear type, the opening of the NLSA to scallopers would likely produce negative social consequences resulting from a delay in the rebuilding of southern New England yellowtail flounder.

Days-at-sea Demarcation Line

If the Council implements a days-at-sea program for trips to the closed areas, then a demarcation line (or another similar measure) would help to minimize any negative impacts on Mid-Atlantic shoreside facilities resulting from a shift in product.

6.2.6.5.4 Groundfish possession limits in the closed areas

Most negative social and community impacts for the groundfish fishery stem from the fear that groundfish bycatch (mostly flounder) by scallopers in the closed areas will negatively affect groundfish rebuilding schedules, and ultimately, it will be the groundfish fleet that incurs the cost of scallop access to the closed areas. This cost, however, cannot be quantified. While the experimental fishery did show groundfish bycatch by scallopers in the closed areas, it is unknown how much groundfish the scallopers will actually catch and how that added mortality will affect groundfish rebuilding schedules and the groundfish fleet.

Currently, scallop vessels may land 300 pounds of combined groundfish bycatch while fishing for scallops. If the scallopers are allowed to land larger amounts of groundfish bycatch from the closed areas, the price of some groundfish species could be affected. If the price of groundfish decreases, the groundfish fleet will experience this loss. This could indirectly worsen social problems in communities with both scallop and groundfish vessels.

6.3 Finding of No Significant Impact (FONSI)

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

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

The proposed action is part of an ongoing stock rebuilding programs established by Amendment 7 to the Atlantic Sea Scallop FMP and Amendment 9 to the Northeast Multispecies FMP that are based on reducing overall fishing mortality, by limiting fishing effort, prohibiting effort in select locations and seasons, and controlling fishing technology. More specifically, this action focuses on transferring or shifting scallop fishing effort from locations with predominately small scallops to areas with predominately larger scallops.

The scallops in Closed Area II are larger than in the now open areas because of the enhanced survival and increased biomass that resulted from a 4½year closure to all gears capable of catching groundfish, including scallop dredges. Since the proposed action is shown to be conservation neutral in terms of total fishing mortality for the entire scallop resource, the total effect is to delay exploitation on younger scallops that predominate in the now open areas. This action is therefore expected to promote quicker rebuilding without increasing fishing mortality above the annual mortality target for 1999, established by Amendment 7.

The proposed action will temporarily open a groundfish closed area that had originally been closed to promote rapid rebuilding of groundfish stocks. While these stocks are not yet fully recovered, some additional catch can be taken within the constraints and target fishing mortality rates established by the Multispecies FMP. Although the estimated bycatch exceeds these multispecies limits differences in fishing practices compared with the 1998 experimental fishery, a TAC for yellowtail flounder, enhanced fishery monitoring, and a potential for suspending the closed area scallop fishery early will prevent the action from exceeding the Multispecies FMP thresholds.

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

The proposed action is expected to result in a decline or in no increase in the total amount of fishing time, measured by either contact time on the bottom or in days-at-sea fished (rather than accumulated). The Council specifically chose not to allow access by scallop vessels in other parts of the Nantucket Lightship Area, Closed Area I, and Closed Area II because of potential adverse habitat impacts. The proposed action is also expected to decrease the amount of scallop dredging in the now open areas, mitigating the negative effects within all three areas.

Measures are included in the proposed action to limit or mitigate habitat impacts. These include:

- Opening only areas that are less sensitive to disturbance and that will recover more quickly
- Reducing fishing effort (by increasing the day-at-sea accumulation for a closed area trip) in now open areas, possibly having more sensitive habitat than the area proposed to be opened
- Increasing the twine top mesh size to allow more small fish and invertebrates to escape during fishing.

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

Since the management measures in the Atlantic Sea Scallop and the Northeast Multispecies FMPs provide flexibility and continuous opportunity to fish within the constraints of the conservation needs of the plan, the Council expects that the proposed measures will not negatively impact safety. The measures do not require vessels to take risks that compromise safety of the vessel and crew.

The proposed action includes measures that specifically avoid creating an incentive to fish as quickly as possible and/or deck-load sea scallops while fishing in the re-opened closed area. Since a closed area trip will automatically accumulate 10 days-at-sea, no matter how long it takes to catch the scallops, vessels can fish more rationally without cost. Under average conditions, a vessel is expected to catch the scallop possession limit in three to four days. With a three-day steam time to and from port, the expected total trip length is six to seven days. The proposed action will therefore allow vessels the opportunity to fish in areas with fewer scallops to avoid bycatch, to fish with fewer crew members (taking longer to shuck scallops prior to leaving the closed areas), or take other steps that might improve public health and crew safety.

The proposed action could also decrease the incentive to fish in poor weather conditions. The proposed season would allow the opportunity to fish the allocation of the three closed area trips during the summer months, when weather is generally favorable. This is especially important for smaller or less seaworthy vessel to participate in the closed area scallop fishery without danger from hurricanes and nor'easters.

On the other hand, some alternatives could directly increase the incentives to fish as quickly as possible, characteristic of a derby fishery. These less attractive incentives that could have negative impacts on public health and safety are explained in Section 6.1.10.

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

The management measures proposed in Scallop Framework Adjustment 13/Multispecies Framework Adjustment 34 may affect, but are not likely to jeopardize the continued existence of endangered and threatened species. In a general sense, the effects of scallop fishing were reviewed during the approval of Amendment 7 and prior amendments to the Atlantic Sea Scallop FMP. This review

resulted in a no jeopardy opinion because of the observed interactions with scallop fishing gear and the proposed management measures. This action is expected to cause total scallop fishing effort to remain at current levels or decline, depending on activation of latent fishing effort. No gear changes, except for a requirement of larger twine top mesh, are required or contemplated. The only effect will be a relocation of fishing effort to the open portion of Nantucket Lightship Area, Closed Area I, and Closed Area II on Georges Bank.

One species that might be adversely affected is the barndoor skate, *Raja laevis*. This species has been petitioned by the Center for Marine Conservation to be listed as an endangered species. Although there appears to be a significant decline in numbers in annual research survey data, a formal assessment of the barndoor skate population is underway, and the results are expected soon. The potential impacts on barndoor skates and whether it would jeopardize the population cannot be determined at this time.

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

The measures in this framework are management adjustments to achieve optimum yield from the scallop resource without jeopardizing the stock rebuilding program for sea scallops or for groundfish. For this reason, the Council does not expect the action to have any cumulative adverse effect on the target resources. In Amendment 7, the Council recognized that effort shifts could occur that may have an adverse impact on other stocks, although the direction and magnitude of that impact could not be predicted. The proposed measures do not substantially change the effect of the stock rebuilding plan on any related stocks nor result in any cumulative adverse effect.

If anything, the proposed action reverses some of the adverse impacts that were associated with the original closure of portions of Georges Bank, from action taken by Framework Adjustment 5 for the Northeast Multispecies FMP. The loss of fishing areas on Georges Bank has caused scallop vessels to intensively target scallops in the now open areas and to target species in other fisheries, e.g. monkfish. This action is expected to partially reverse that effort shift, at least temporarily, and potentially increase fishing effort by some vessels that have unused days-at-sea. While the impacts of the effort shift are more direct, some of the increased utilization of days-at-sea might help reduce the economic necessity and opportunity to participate in other fisheries, e.g. monkfish.

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

FONSI STATEMENT: In view of the analysis presented in this document and in the FSEIS for Amendment 7 to the Atlantic Sea Scallop Fishery Management Plan and Amendment 9 to the Northeast Multispecies Fishery Management Plan, the proposed action will not significantly affect the quality of the human environment with specific reference to the criteria contained in NAO 216-6 implementing the National Environmental Policy Act. Accordingly, the preparation of a Supplemental Environmental Impact Statement for this proposed action is not necessary.

**Assistant Administrator
For Fisheries, NOAA**

Date

6.4 Regulatory Impact Review (RIR)

6.4.1 Introduction

This section provides the information necessary for the Secretary of Commerce to address the requirements of Executive Order 12866 and the Regulatory Flexibility Act (RFA).

The purpose and need for management (statement of the problem) is described in Section 3.0. The proposed action is described in Section 5.1. Alternatives to the proposed action are also summarized in Section 0. The economic impacts are described in Section 0 and summarized below under the discussion of how the proposed action is characterized under EO 12866 and the RFA.

6.4.2 Executive Order 12866

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

- a) The Framework 13 proposed action is developed to allow restricted access for scallop fishing vessels to Closed Area II, Closed Area I and Nantucket Lightship (NLS) area to take advantage of the high scallop biomass in areas where groundfish bycatch are lower. As analyzed in section 6.2.6.4 of the framework document, access to the closed areas will have positive impacts on fleet revenues, and the economy. The fleet revenues are estimated to increase by \$18 million. The consumer benefits as measured by the consumer surplus will increase by \$14.4 million, the producer surplus by \$19 million and net national benefits by \$33.4 million. The proposed VMS requirements for the general category scallop permit holders and the increase in the polling frequency for all scallop vessels accessing closed areas will, however, increase the compliance costs for the scallop fishery by \$0.5, and will therefore, reduce net benefits slightly to \$32.9 million.

The proposed access by the general to Closed Area I and the Nantucket Lightship Area may increase total scallop revenues by an additional \$3.5 million if the landings by these vessels reach 5 percent of the TAC. Because of the lack of information on the costs and fishing patterns by the general category scallop permit holders, the impacts on net revenues and benefits could not be quantified. The additional increase in net benefits due to access by the general category vessels will probably be less than \$3.5 million, however, since part of the increase in revenues will be used to pay for the operational expenses.

Because of the access to the closed areas and the associated days-at-sea trade-offs, total days-at-sea used for scallop fishing will decrease. As a result, the employment in the scallop fishery as measured by total crew days-at-sea may decline by 2.1 percent. On the other hand, the increase in overall fleet revenues and net benefits will have a positive impact on the national and regional economy, and as a result, may stimulate growth of new jobs in other parts of the fishing industry and the economy. For these reasons, the proposed action will not adversely affect in a material way the economy, productivity, competition and jobs. The proposed action will not have an annual effect on the economy of more than \$100 million.

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

- c) The proposed action will not create an inconsistency or otherwise interfere with an action taken or planned by another agency. No other agency has indicated that it plans an action that will affect the same areas and the fisheries.
- d) The proposed action will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of their recipients.
- e) The proposed action does not raise novel legal or policy issues. Regulations regarding area closures, and trip limits have already been used to manage fisheries in the Northeast.

6.5 Regulatory Flexibility Analysis (RFA)

The purpose of the Regulatory Flexibility Analysis (RFA) is to reduce the impacts of burdensome regulations and record keeping requirements on small businesses. To achieve this goal, the RFA requires government agencies to describe and analyze the effects of regulations and possible alternatives on small business entities. Based on this information, the Regulatory Flexibility Analysis determines whether the proposed action would have a “significant economic impact on a substantial number of small entities.”

The RFA applies to any rule or regulation that must undergo “notice and comment” under the Administrative Procedures Act (APA), specifically those rules published as proposed rules. When RFA applies, the Council must assess the impacts of the regulations to determine if they will have a “significant economic impact on a substantial number of small entities”. Since this action is submitted as a final rule, not subject to further notice and comment under the APA, the RFA does not apply. Section 0 provides, however, an analysis of the economic impacts of the proposed access on the small business entities and vessels.

6.6 Endangered Species Act (ESA)

Section 7 of the ESA requires federal agencies conducting, authorizing or funding activities that may affect threatened or endangered marine species to ensure that those effects do not jeopardize the continued existence of listed species. See Section 0 for a discussion of impacts on ESA-listed species. The management measures proposed in Scallop Framework Adjustment 13/Multispecies Framework Adjustment 34 may affect, but are not likely to jeopardize the continued existence of endangered and threatened species. The Council recognizes that this conclusion does not change the basis for the previous determination that overall operation of fisheries managed under the Northeast Multispecies FMP, without modification, is likely to jeopardize the continued existence of endangered species under NMFS jurisdiction. These management measures are not expected to result in the adverse modification of right whale critical habitat. Should activities associated with the Sea Scallop or Multispecies FMPs change significantly or new information become available that alters this determination, the Council will reinitiate consultation.

6.7 Marine Mammal Protection Act

The New England Fishery Management Council has reviewed the impacts of the Atlantic Sea Scallop and Northeast Multispecies FMPs on marine mammals and concludes that this management action is consistent with the provisions of the MMPA and will not alter existing measures to protect the species likely to inhabit the management unit. See Section 0 for a discussion of these impacts.