

**Commonwealth's Request for Federal Declaration of a
Groundfish Fishery Resource Disaster:
*Economic impact of federal fishery regulations on
Massachusetts groundfish fishery***

**Report By
Massachusetts Division of Marine Fisheries**

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ACKNOWLEDGMENTS

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Key Facts

1. The Secretary of Commerce declared a “fishery resource disaster” affecting the New England fishing industry in 1994. Criteria were identified and used for determining that a disaster existed and would continue for years.
2. Overall resource conditions between 1994 and 2006 have not improved. For example:
 - a. N.E. groundfish landings were 65,000 mt in 1993 compared to 32,300 mt in the 2005/2006 fishing year – about 50% less than the amount justifying the earlier declaration.
 - b. In 1994, spawning stock biomass (SSB) levels of all major groundfish stocks were at or near record lows, and recruitment, especially since 1987, was poor. In 2006 SSB is still near record low levels for most of the major stocks. Recruitment generally remains low for these stocks.
3. Economic analyses in 1994 projected a five year dramatic loss in fleet groundfish revenues, profits, and job losses that would be especially harmful for many marginal businesses. Analyses of Framework 42 projects the northeast region will suffer a decline in gross sales of \$52 million with the overall impact on the region’s economy being about \$98 million. The largest impacts will be felt in New Bedford (\$14.4 million), Gloucester (\$13.5 million), and Boston (\$11.1 million).
4. Framework 42’s Final Environmental Impact Statement (FEIS) establishes that impacts on revenues are not evenly distributed. In general, ports adjacent to differential DAS areas (See Figure 1) that receive landings from the day-boat fleet are expected to have the largest declines in groundfish revenues. Half of vessels with homeports in Massachusetts are expected to face a 16% or greater decline in revenues. Half of vessels dependent on the inshore Gulf of Maine (GOM) area are expected to lose 35% or more of total revenue.
5. The FEIS also states social impacts will not be evenly distributed. Figure 1 shows Framework 42’s 2:1 differential counting area (shaded); the rectangular area within and adjacent to the 2:1 Days-at-Sea (DAS) area is a permanent closure. This 2:1 area just by itself represents an especially hard-hitting restriction, i.e., a 50% cut in allocated fishing days for all vessels incapable of escaping the 50%-cut zone.

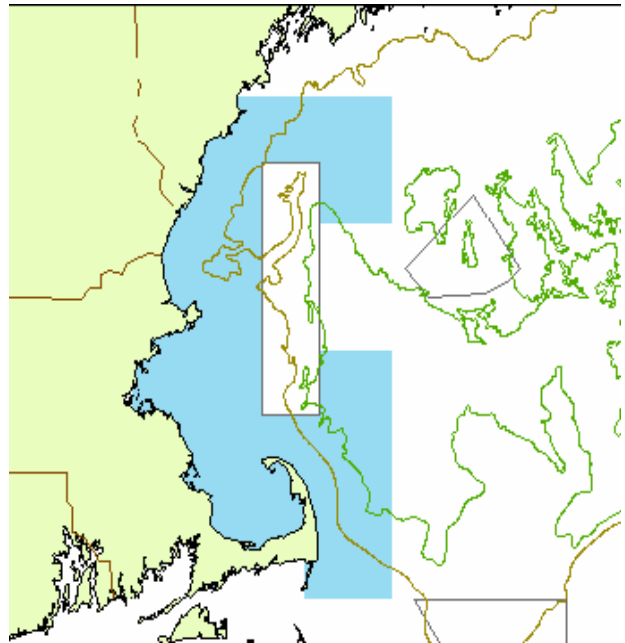


Figure 1. The blue area represents the inshore GOM, where federal regulations have enacted differential 2:1 DAS counting.

Introduction

Sections 312 and 315 of the Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Reauthorization Act of 2006, provide for the declaration by the Secretary of Commerce of a commercial fishery failure due to a fishery resource disaster. In his letter of February 21, 2007, to Secretary Carlos Gutierrez, Governor Deval Patrick requested such a declaration for the Commonwealth's commercial fishing industry arising from the implementation of the emergency interim action in May 2006 and the Framework 42 adjustment of the Northeast Multispecies Fisheries Management Plan in November 2006. This document provides support for Governor Patrick's request.

As discussed below, the case for a commercial fishery failure rests on two related lines of evidence. The first concerns the substantial and disproportionate reduction in revenue suffered by the Massachusetts groundfish fishery attributable to the implementation of the emergency interim action and the Framework 42 adjustment. The second rests on the analogy between the current situation and the situation in 1994, when a fishery disaster was declared for the New England fishery generally.

Background

New England groundfish are managed as a complex of 15 species, including Atlantic cod, haddock, and flounders that are common to the Gulf of Maine and Georges Bank. Following a precipitous decline in groundfish landings in the early 1990s, a series of management actions was undertaken. These management actions, which are summarized in Appendix 1, included a variety of area closures and the implementation of a Days-At-Sea program that has increasingly tightened restrictions on allowable fishing effort. In addition to the management actions summarized in Appendix I, so-called buy-out programs totaling \$35 million were implemented in 1995, 1997, and 2001 to reduce surplus capacity in the New England groundfish fishery.

Despite these actions, with few exceptions, groundfish stocks in the US waters of the Gulf of Maine and Georges Bank have failed to recover (See Figure 2). The reasons for this failure are not fully understood and may reflect, in part, unrecognized biological and environmental factors. In any case, an emergency interim action was implemented by the National Marine Fisheries Service in May 2006. This emergency interim action reduced available fishing days for the entire fishery, throughout the Gulf of Maine and Georges Bank and by charging 1.4 days for each day fished. This was followed in November 2006 by the implementation of Framework 42, which eliminated the 1.4 counting, in the inshore GOM fishery, where Days-at-Sea were reduced additionally to a 2:1 counting for each day fished.

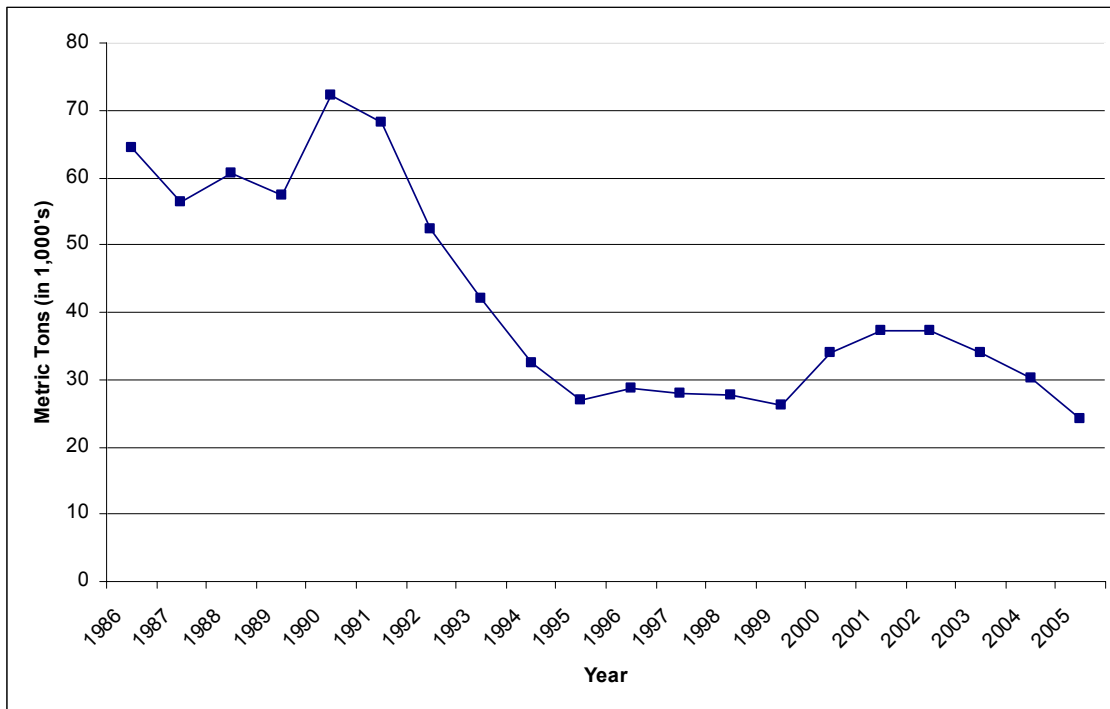


Figure 2. Commercial landings of three key groundfish species (cod, haddock, and yellowtail flounder) during 1986 to 2005. Personal communication from the National Marine Fisheries Service, Fisheries Statistics Division, Silver Spring, MD.

Approach

We relied on information from federal documents and reports developed during a 1994 disaster declaration and commercial landings data from the Standard Atlantic Fisheries Information Systems (SAFIS) Dealer Reporting System, the National Marine Fisheries Service Vessel Trip Reports (VTR) and the federal at-sea observer program to evaluate and compare current trends in harvest and fishery performance. Information from the 2004 National Marine Fisheries Service (NMFS) Groundfish Assessment Review Meeting (GARM) was used to show trends in current resource conditions.

To describe recent regulatory actions and impacts, both potential and realized, we utilized Amendments 3, 5 and 13 and Framework 42 to Northeast Multispecies Fisheries Management Plans (FMP) and their accompanying federal Environmental Impact Statements. The impact analysis from the Framework 42 environmental assessment quantified projected changes in both total revenues and revenues from groundfish for vessels with federal groundfish permits by comparing revenues from a baseline period (2001-2004) with projected revenues using a math programming model called the Closed Area Model (CAM) that assumes constant prices. The model attempts to quantify how changes in fishing behavior under new regulations will impact both fishing mortality rates and the revenues of vessels catching groundfish. The federal impact analysis predicts that, under Framework 42, vessels deemed highly dependent on the inshore Gulf of Maine (defined as vessels that spent at least 75% of their time fishing in that area) are likely to be disproportionately adversely impacted by the new regulations; three-quarters of such vessels will lose 20% or more in total revenues and greater than 37% in groundfish revenues.

This report compares the periods May 2005-January 2006 (pre-Framework 42) and May 2006-January 2007 (post-interim emergency action and Framework 42) to examine realized changes in groundfish revenue and total revenue. The interim action was effective during May – November 21 and Framework 42 has been in place since November 22. Therefore this analysis shows the realized impacts of the interim emergency action and Framework 42 on the groundfish fishing fleet in Massachusetts – the fleet most likely to be adversely impacted by Framework 42 regulations going forward. We selected the same vessels used in the CAM that landed in Massachusetts ports during May 2005 - January 2007 (i.e. groundfish vessels with a federal Days At Sea permit). Likewise, vessels dependent on inshore Gulf of Maine used by the CAM were selected if they were home-ported in Massachusetts and landed in Massachusetts during May 2005-January 2007. We included only vessels using a DAS and landing groundfish in a Massachusetts port. Framework 42 projected results are not directly comparable to our realized revenue changes because of methodological differences between the two analyses. These include: (1) groundfish prices increased in fishing year 2006 but the Framework based projections on constant prices, (2) the Framework used average-vessel revenue for 2001-2004 to make its comparisons, whereas we compare losses for partial fishing years (May 2005 – January 2006 versus May 2006 – January 2007)¹, and (3) Framework 42’s intended implementation date of May 1, 2006 was delayed until November 22, 2006. During the interim emergency action period (May 1 – November 21, 2006), groundfish vessels were regulated under 1.4:1 differential DAS counting versus 2:1 differential DAS counting in the Gulf of Maine implemented on November 22, 2006 by Framework 42. Information provided on fixed and variable costs of vessel insurance and fuel are not included formally in either analysis, but do illustrate the potential for eroded profitability in the groundfish fishery. The next sections reviews stock status and the predicted and realized economic impacts of this reduction.

Stock Status

Most groundfish stocks were last assessed for calendar year 2004 at the Groundfish Assessment Review Meeting (GARM) II (Mayo and Terceiro, 2005). Georges Bank yellowtail was assessed through 2005 at the Transboundary Resource Assessment Committee (Legault et al., 2005). Stock status is based on two criteria: whether a stock is overfished and whether overfishing is occurring.² Of 19 stocks, seven were overfished with overfishing occurring, five were overfished, but overfishing was not occurring. Of the 13 stocks with formal rebuilding programs, seven were behind the Amendment 13 projected rebuilding schedule.

Although not considered in this report, stocks classified as “overfished” have thresholds and targets aggressively set at very high levels through Amendment 13 and are subject to revision according to Amendment 13 criteria. Some are based on historical high levels of biomass estimated from data acquired through federal spring and fall bottom trawl surveys. Others are based on abundance and distribution patterns the federal government assumes will be re-established providing environmental and other influences are not limiting.

¹ Fishing year refers to the period May 1st through April 30th versus a January 1st through December 31st calendar year.

² Overfishing is a level of harvest that exceeds some pre-determined maximum threshold of fishing mortality and an overfished stock is one that falls below some pre-determined biomass minimum threshold.

Economic Impacts

The main provision of the Framework 42 adjustment is an immediate reduction by 50% of allowable Days-At-Sea in the inshore Gulf of Maine. Such a large, immediate reduction will, on *prima facie* grounds, result in significant economic dislocation in the Massachusetts groundfish fishery.

This conclusion is supported by the economic analysis presented in the April 2006 Environmental Assessment of the Framework 42 adjustment and reiterated in the January 2007 Report to Congress entitled “An Examination of the Potential Impact on All Affected and Interested Parties of Framework 42 to the Northeast Multispecies Fishery Management Plan.” The analysis presented in these documents predicted that:

- the median impact on Federally permitted fishing vessels landing in Massachusetts and operating under the Days-At-Sea program would be a decline in total revenue of 16% or more;
- the median impact on Federally permitted fishing vessels that spend at least 75% of Days-At-Sea in the inshore Gulf of Maine would be a decline in revenue of 35% or more (See boxplot diagrams in Appendix 2);
- average revenue of all vessels with home ports in Massachusetts would decline 20%.

To elucidate further the revenue effect of the recent management actions, an analysis was undertaken by the Massachusetts Division of Marine Fisheries. This analysis compared Massachusetts groundfish ex-vessel³ revenues in 2005 and 2006. Results show that Massachusetts groundfish ex-vessel revenues totaled approximately \$44.6 million in calendar year 2005 and \$36.5 million in 2006. Based on this information and a moderate multiplier of 2.7 that is used by the National Marine Fisheries Service, total economic activity was \$120.4 million in 2005 and \$98.6 million in 2006, representing a \$22 million decrease (18%). In addition, total revenues of federally permitted vessels landing in Massachusetts and operating under the Days-At-Sea program fell by 14% between these two periods. The analogous figure for vessels that spend at least 75% of Days-At-Sea in the inshore Gulf of Maine was 21%.

In comparing these figures to the predictions of the Environmental Assessment, it is important to note that the Framework 42 adjustment did not come into force until November 22, 2006. Thus, the realized losses in revenues are generally consistent with the losses predicted in the Environmental Assessment.

In summary, it is clear that the 50% reduction in allowable Days-At-Sea mandated by the Framework 42 adjustment has caused and will continue to cause a substantial reduction in revenues to the Massachusetts groundfish fishery and related sectors. The economic effects of this reduction will ripple through the already stressed local economies of fishing communities like New Bedford, Gloucester, and Chatham.

³ “Ex-vessel” revenues mean the “off the boat” price the vessel/fishermen receive for their catch. (i.e., there is not adjustment for costs associated with unloading, grading, icing, packing, cartage, etc.)

Analogy to the 1994 disaster

There are numerous parallels between the conditions that lead to the federal disaster declaration for the New England groundfish fishing industry in 1994 and conditions today.

Justification for disaster declaration in 1994 were partly based on the fact that U.S. landings of New England groundfish resources had declined from about 200,000 metric tons (mt) in 1980 to about 65,000 mt in 1993 and were expected to be significantly lower in 1994. In fishing year 2005 (May 1, 2005 – April 2006) groundfish landings region-wide were 32,300 mt – far less than the amount used as a partial justification of the 1994 declaration of disaster. Likewise, for the 1994 disaster, yield of three of the most important groundfish species, cod, haddock, and yellowtail flounder was only 26,000 mt in 1993 and was expected to decline to 17,000 mt in 1994. In 2005, 15,500 mt of these three species were landed – 9% less than the expected 1994 landings.

There are additional parallels in terms of economic impacts. The Environmental Assessment of the Framework 42 adjustment predicts an overall decline in revenues to the Massachusetts groundfish fishery of 16%. Consistent with this prediction, as described above, a preliminary data analysis found a 14% decline in overall revenues between the partial fishing years May 2005-January 2006 and May 2006-January 2007, with the Framework 42 adjustment in force for only the last two months of the latter period. On March 18, 1994, Secretary of Commerce Ron Brown declared a fishery resource disaster affecting the New England region generally. Between 1992 and 1993, revenues to the New England groundfish fishery – covering cod, haddock, and flounders – declined from \$117 million to \$103 million, or by around 12%.

Thus, the decline in revenues to the Massachusetts groundfish fishery resulting from the implementation of the Framework 42 adjustment is comparable to the decline that justified the 1994 New England fishery resource disaster.

The present situation is analogous to the 1994 New England fishery resource disaster in other ways. For example, as in 1994, spawning stock biomass (SSB) for most groundfish stocks in US waters are extremely low, with little prospect for rapid recovery. Adding to our argument for a disaster declaration partly based on low SSB, there is also poor juvenile recruitment for many groundfish stocks. For example, Georges Bank cod recruitment has been far below the median level since 1991. In 1994 recruitment was at its lowest level since the 1970s. In 2000, 2001, and 2002 recruitment was lower than in 1994. Recruitment was somewhat better in 2003 and 2004. Nevertheless, there is a low probability for significant near-term improvement in SSB. Finally, as in 1994, the economic damage to the Massachusetts groundfish fishery and the communities that it supports are almost certain to be long lasting.

Summary and Recommendations

The groundfish stocks in and around the Gulf of Maine and Georges Bank have been slow to recover in response to a series of management actions undertaken since 1994. Causes of

this are not fully understood and may reflect, in part, unrecognized biological and environmental factors. The implementation of the emergency interim action in May 2006 and the Framework 42 in late November 2006 were intended to address slow resource recovery. The outcome of these actions reduced the available Days-At-Sea in the inshore Gulf of Maine by 2:1. The Environmental Assessment of the Framework 42 adjustment predicted a median decline in total revenues to the Massachusetts groundfish fishery of 16%, with a greater decline for vessels generally confined to the inshore Gulf of Maine. A preliminary analysis of data is consistent with these predictions, estimating a \$22 million decrease in the fisheries-based economy. A decline in revenues of this magnitude – which is greater than the corresponding decline that occasioned the declaration of a fishery resource disaster in 1994 – represents a true economic disaster to the Massachusetts groundfish fishery and to the communities that it supports.

We believe that federal groundfish fishery regulations, especially area closures and Days-at-Sea, other rules superimposed on those areas, combined with fishery resource conditions that have not responded to those regulations, will continue to drive the Commonwealth's groundfish industry towards economic failure triggering dramatic changes in community profitability. Substantial federal funds over the past 15 years have been directed towards New England's groundfish communities specifically to address this situation. While federal assistance has helped, economic stability has never been achieved.

Since we expect resource conditions will not improve markedly overall in the near future and more stringent regulatory measures are likely forthcoming, we recommend that the Governor continue to request that the federal government declare a “commercial fishery failure due to a fishery resource disaster” and ask for federal funds to be allocated to the Commonwealth. Future assistance should be directed at preserving commercial fishing infrastructure and resolving economic failure. Development of community restructuring plans for key Massachusetts fishing communities is advised and formulation of vessel/permit buy-out programs with specific objectives to help stabilize the fishing economy should be initiated.

REFERENCES

Amendment 13 Framework 42 FEIS http://www.nefmc.org/nemulti/frame/frame_42.html (cited on 7 March 2007).

Declaration of Disaster Affecting the New England Fishing Industry
http://www.nmfs.noaa.gov/mb/financial_services/disaster.htm (cited on 7 March 2007).

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Mayo, R.K.; Terceiro, editors. 2005. Assessment of 19 Northeast groundfish stocks through 2004. 2005 Groundfish Assessment Review Meeting (2005 GARM), Northeast Fisheries Science Center, Woods Hole, Massachusetts, 15-19 August 2005. U.S. Dep. Commer., Northeast Fish. Sci. Cent. Ref. Doc 05-13; 499p. <http://www.nefsc.noaa.gov/nefsc/publications/crd/crd0513> (cited on 7 March 2007).

U. S. Energy Information Administration <http://tonto.eia.doe.gov/oog/info/gdu/gasdiesel.asp> (cited 30 March 2007).

U.S Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, An examination of the potential impact on All Affected and Interested Parties of Framework 42 to the Northeast Multispecies Fishery Management Plan
<http://www.nmfs.noaa.gov/msa2007/Framework42ReporttoCongressFinalFinal.pdf> (January 2007)

Appendix 1. DAS and closed area regulatory components of major amendments and framework adjustments to the federal Northeast Multispecies Fishery Management Plan (1994-2007).⁴

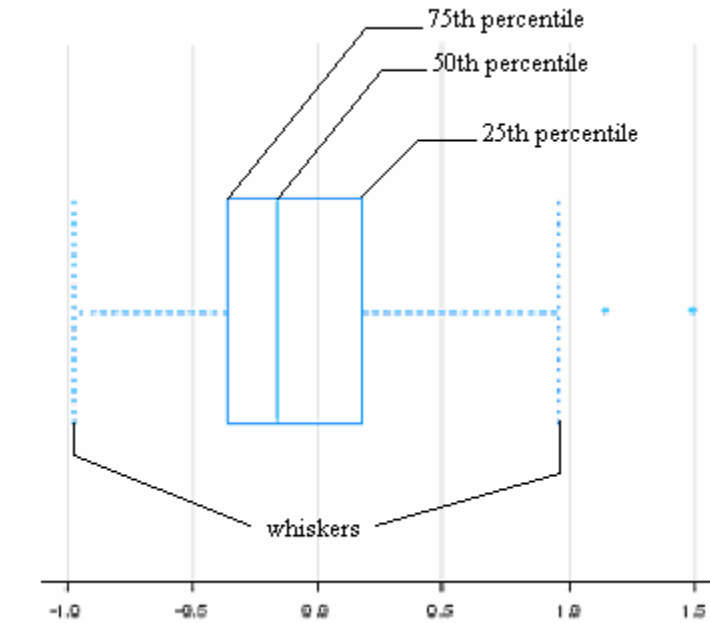
Year Implemented	Amendment or Framework #	Description of Regulatory Action(s)
1994	Amendment 5	<ul style="list-style-type: none"> mandates 50% reduction in F and effort over 5-7 years implements DAS effort reduction program implemented implements moratorium on new vessel permits during rebuilding period expands size of Closed Area II
	Amendment 6	<ul style="list-style-type: none"> extends duration of Closed Area II (Georges Bank) from four to six months
1996	Amendment 7	<ul style="list-style-type: none"> accelerates the day-at-sea effort reduction program eliminates significant exemptions from effort control program broadens area closures to protect juvenile and spawning fish (get some specificity on whether areal or temporal expansion or both)
	Framework 19	<ul style="list-style-type: none"> limits duration and geographic extent of Mid-coast closure in Gulf of Maine due to disproportionate economic impacts on smaller inshore vessels
1997	Framework 20	<ul style="list-style-type: none"> clarifies DAS effort reduction program protocol by tracking 24-hour days to the minute
	Framework 22	<ul style="list-style-type: none"> closes certain southern New England waters to certain gear types
	Framework 23	<ul style="list-style-type: none"> closes portions of CCB and southern New England waters during certain periods to gillnet gear
1998	Framework 24	<ul style="list-style-type: none"> allows vessels to carry over up to 10 unused DAS/year exempts vessels fishing in NAFO area from DAS effort control program requires running DAS at port to account for overages
	Framework 25	<ul style="list-style-type: none"> implements series of one month sequential rolling closures in the Gulf of Maine prohibits lobster vessels fishing in closed areas from possessing groundfish
1999	Framework 26	<ul style="list-style-type: none"> implements additional rolling closures in the Gulf of Maine (Feb & Apr) to provide protection for spawning cod
	Framework 27	<ul style="list-style-type: none"> expands seasonal rolling closures in Gulf of Maine and continues year-round Western Gulf of Maine Closed Area

⁴ Because the DAS effort reduction program and closed areas are primary components of the federal management plan, they are the regulations on which this report focuses its analysis. But additional input/output controls have been implemented such as target total allowable catches, trip limits, gear restrictions, and fish minimum sizes; addendums and frameworks with no direct impact on DAS or closed area regulations are not included in Table 1.

		<ul style="list-style-type: none"> eliminates Stellwagen Bank and Jeffreys Ledge Regulated Mesh Areas
	Framework 28	<ul style="list-style-type: none"> extends Cape Cod South and Mass Bay closures modifies coordinates of Mid-coast Closure Area
2000	Framework 31	<ul style="list-style-type: none"> implements additional rolling closure in Mass Bay and Stellwagen Bank
	Framework 33	<ul style="list-style-type: none"> continues closures implemented by Frameworks 27 & 31 extends Cashes Ledge and Gulf of Maine rolling closures (124 & 125) depending on percent GOM cod TAC harvested by July (framework trigger pulled in 2001 & 2002) establishes part/charter closed area exemption program extends offshore closures on Georges Bank
2002	Interim Rule	<ul style="list-style-type: none"> 20% cut in DAS
2003	Interim Rule	<ul style="list-style-type: none"> 20% cut in DAS
2004	Amendment 13	<ul style="list-style-type: none"> implements DAS Leasing and Transfer Program
	Framework 40A	<ul style="list-style-type: none"> implements Regular B DAS Pilot Program, providing opportunities to target healthy stocks of groundfish in order to mitigate the economic and social impacts resulting from the effort reductions in Amendment 13
2005	Framework 40B	<ul style="list-style-type: none"> revises the Days-at-Sea (DAS) Leasing and Transfer Programs modifies provisions for the Closed Area (CA) II Yellowtail Flounder Special Access Program (SAP)
2006	Emergency Interim	<ul style="list-style-type: none"> 1.4 :1 differential DAS counting everywhere
	Framework 42	<ul style="list-style-type: none"> Reduce A DAS by 8.3%, 2:1 differential DAS counting for inshore Gulf of Maine

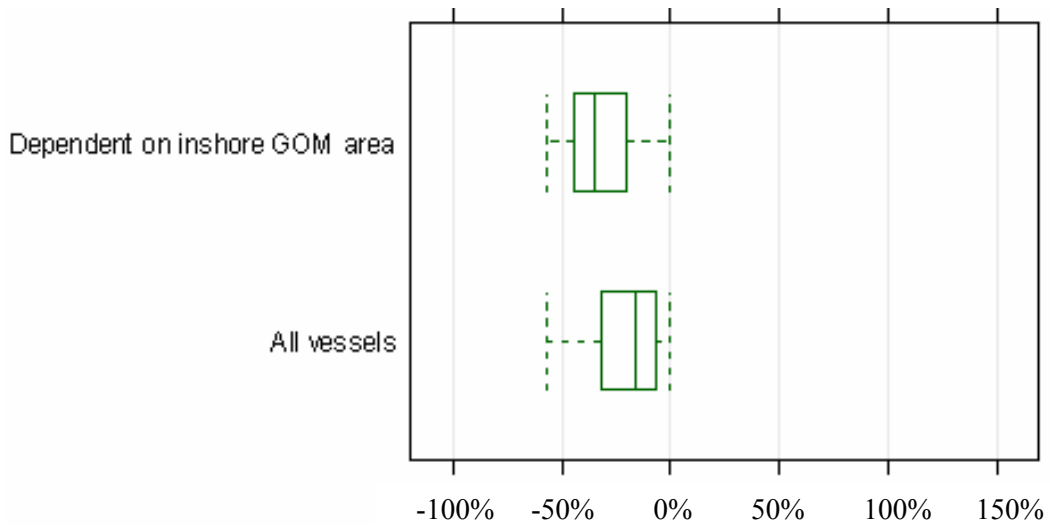
Appendix 2. Declines in fisheries revenue

Framework 42 projects large declines in total revenue and groundfish revenue for vessels highly dependent on the inshore Gulf of Maine area. Our examination of the change in revenues during a year with partial implementation of Framework 42 appears consistent with the directionality and general magnitude of the projected Framework 42 impacts.

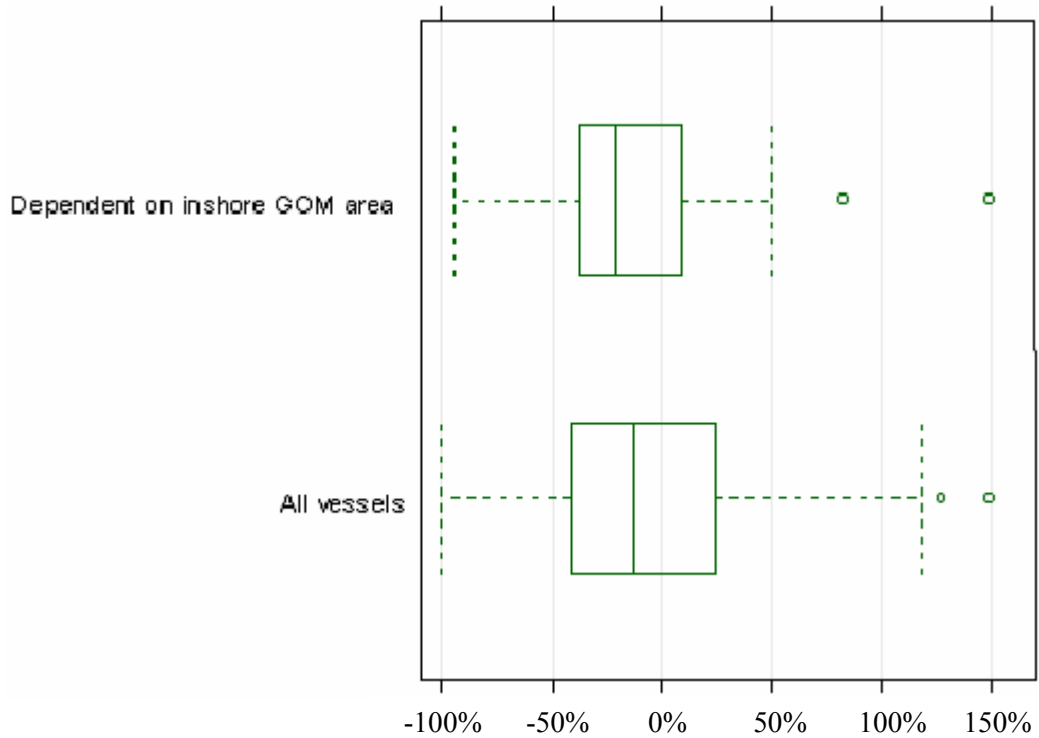


Summary of a boxplot. The line in the middle of the box is the median (50th percentile) i.e., half of all observations (vessels) were equal to -.16 or greater. The whiskers represent observations that are up to 1.5 times the interquartile range (width of the box). Individual points are considered outliers and may represent more than one observation.

Projected Percent Change in Total Revenue

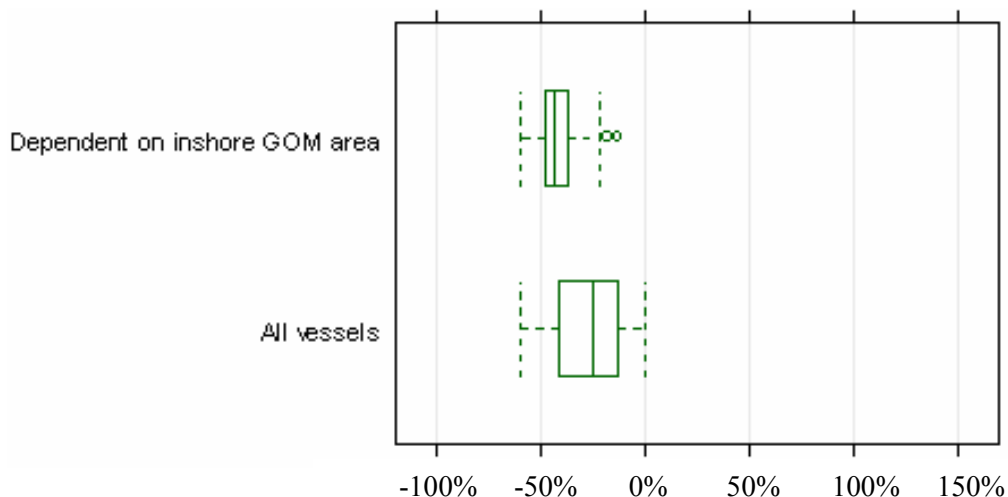


Realized Percent Change in Total Revenue

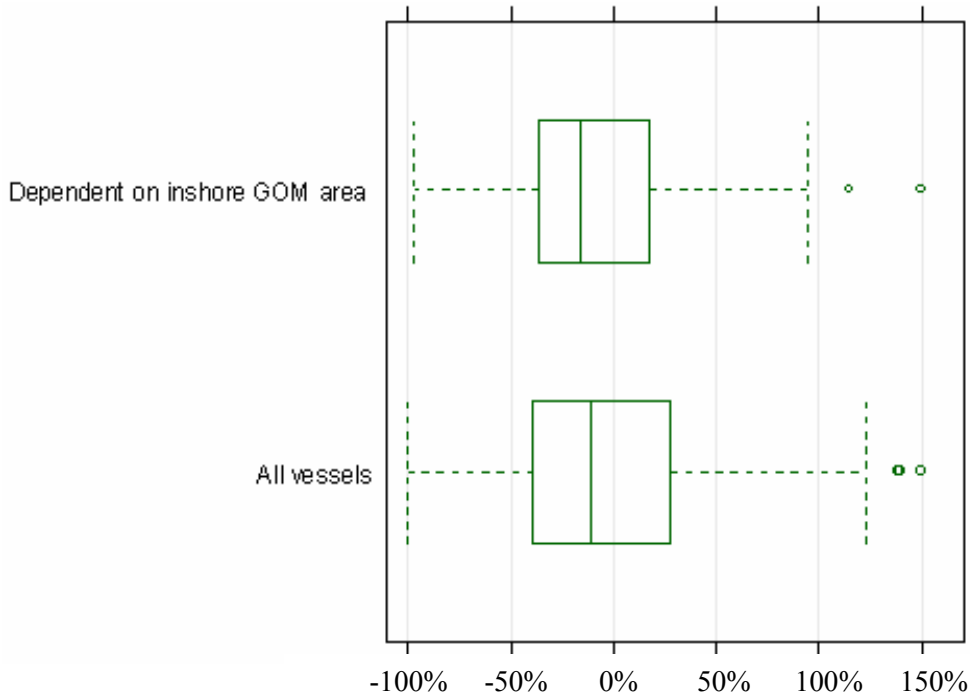


Projected (Framework 42) and realized (May 2005 – Jan 2006 versus May 2006 – Jan 2007) changes in total revenue for federally permitted groundfish vessels landing in Massachusetts, including those vessels dependent on inshore GOM area. Outliers with values greater than 150% were set equal to 150%.

Projected Percent Change in Groundfish Revenue



Realized Percent Change in Groundfish Revenue



Projected (Framework 42) and realized (May 2005 – Jan 2006 versus May 2006 – Jan 2007) changes in groundfish revenue for groundfish vessels landing in Massachusetts, including those vessels dependent on inshore GOM area. Outliers with values greater than 150% were set equal to 150%.

Appendix 3. MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT (P.L. 94-265) as amended by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (P.L. 109-479).

(SECTIONS 215, 312, & 315)

SEC. 215. NEW ENGLAND GROUND FISH FISHERY.

- (a) REVIEW.—The Secretary of Commerce shall conduct a unique, thorough examination of the potential impact on all affected and interested parties of Framework 42 to the Northeast Multispecies Fishery Management Plan.
- (b) REPORT.—The Secretary shall report the Secretary’s findings under subsection (a) within 30 days after the date of enactment of this Act. The Secretary shall include in the report a detailed discussion of each of the following:
 - (1) The economic and social implications for affected parties within the fishery, including potential losses to infrastructure, expected from the imposition of Framework 42.
 - (2) The estimated average annual income generated by fishermen in New England, separated by State and vessel size, and the estimated annual income expected after the imposition of Framework 42.
 - (3) Whether the differential days-at-sea counting imposed by Framework 42 would result in a reduction in the number of small vessels actively participating in the New England Fishery.
 - (4) The percentage and approximate number of vessels in the New England fishery, separated by State and vessel type, that are incapable of fishing outside the areas designated in Framework 42 for differential days-at-sea counting.
 - (5) The percentage of the annual groundfish catch in the New England fishery that is harvested by small vessels.
 - (6) The current monetary value of groundfish permits in the New England fishery and the actual impact that the potential imposition of Framework 42 is having on such value.
 - (7) Whether permitting days-at-sea to be leased is altering the market value for groundfish permits or days-at-sea in New England.
 - (8) Whether there is a substantially high probability that the biomass targets used as a basis for Amendment 13 remain achievable.
 - (9) An identification of the year in which the biomass targets used as a basis for Amendment 13 were last evident or achieved, and the evidence used to determine such date.
 - (10) Any separate or non-fishing factors, including environmental factors, that may be leading to a slower rebuilding of groundfish than previously anticipated.
 - (11) The potential harm to the non-fishing environment and ecosystem from the reduction in fishing resulting from Framework 42 and the potential redevelopment of the coastal land for other purposes, including potential for increases in non-point source of pollution and other impacts.

SEC. 312. TRANSITION TO SUSTAINABLE FISHERIES 6 16 U.S.C. 1861a

(a) FISHERIES DISASTER RELIEF.--

- (1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishing community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of--
 - (A) natural causes;
 - (B) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures, including regulatory restrictions (including those imposed as a result of judicial action) imposed to protect human health or the marine environment; or
 - (C) undetermined causes.
- (2) Upon the determination under paragraph (1) that there is a commercial fishery failure, the Secretary is authorized to make sums available to be used by the affected State, fishing community, or by the Secretary in cooperation with the affected State or fishing community for assessing the economic and social effects of the commercial fishery failure, or any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishing community affected by such failure. Before making funds available for an activity authorized under this section, the Secretary shall make a determination that such activity will not expand the size or scope of the commercial fishery failure in that fishery or into other fisheries or other geographic regions.
- (3) The Federal share of the cost of any activity carried out under the authority of this subsection shall not exceed 75 percent of the cost of that activity.
- (4) There are authorized to be appropriated to the Secretary such sums as are necessary for each of the fiscal years 2007 through 2013.

SEC. 315. REGIONAL COASTAL DISASTER ASSISTANCE, TRANSITION, AND RECOVERY PROGRAM.

- (a) **IN GENERAL.**—When there is a catastrophic regional fishery disaster the Secretary may, upon the request of, and in consultation with, the Governors of affected States, establish a regional economic transition program to provide immediate disaster relief assistance to the fishermen, charter fishing operators, United States fish processors, and owners of related fishery infrastructure affected by the disaster.
- (b) **PROGRAM COMPONENTS.**—
 - (1) **IN GENERAL.**—Subject to the availability of appropriations, the program shall 116 provide funds or other economic assistance to affected entities, or to governmental entities for disbursement to affected entities, for—
 - (A) meeting immediate regional shoreside fishery infrastructure needs, including processing facilities, cold storage facilities, ice houses, docks, including temporary docks and storage facilities, and other related shoreside fishery support facilities and infrastructure while ensuring that those projects will not result in an increase or replacement of fishing capacity;
 - (B) financial assistance and job training assistance for fishermen who wish to remain in a fishery in the region that may be temporarily closed as a result of environmental or other effects associated with the disaster;
 - (C) funding, pursuant to the requirements of section 312(b), to fishermen who are willing to scrap a fishing vessel and permanently surrender permits for fisheries named on that vessel; and
 - (D) any other activities authorized under section 312 of this Act or section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)).
 - (2) **JOB TRAINING.**—Any fisherman who decides to scrap a fishing vessel under the program shall be eligible for job training assistance.
 - (3) **STATE PARTICIPATION OBLIGATION.**—The participation by a State in the program shall be conditioned upon a commitment by the appropriate State entity to ensure that the relevant State fishery meets the requirements of section 312(b) of this Act to ensure excess capacity does not re-enter the fishery.

- (4) **NO MATCHING REQUIRED.**—The Secretary may waive the matching requirements of section 312 of this Act, section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107), and any other provision of law under which the Federal share of the cost of any activity is limited to less than 100 percent if the Secretary determines that—
- (A) no reasonable means are available through which applicants can meet the matching requirement; and
 - (B) the probable benefit of 100 percent Federal financing outweighs the public interest in imposition of the matching requirement.
- (5) **NET REVENUE LIMIT INAPPLICABLE.**—Section 308(d) (3) of the Interjurisdictional Fisheries Act (16 U.S.C. 4107(d) (3)) shall not apply to assistance under this section.
- (c) **REGIONAL IMPACT EVALUATION.**—Within 2 months after a catastrophic regional fishery disaster the Secretary shall provide the Governor of each State participating in the program a comprehensive economic and socio-economic evaluation of the affected region’s fisheries to assist the Governor in assessing the current and future economic viability of affected fisheries, including the economic impact of foreign fish imports and the direct, indirect, or environmental impact of the disaster on the fishery and coastal communities.
- (d) **CATASTROPHIC REGIONAL FISHERY DISASTER DEFINED.**—In this section the term ‘catastrophic regional fishery disaster’ means a natural disaster, including a hurricane or tsunami, or a regulatory closure (including regulatory closures resulting from judicial action) to protect human health or the marine environment, that—
- (1) results in economic losses to coastal or fishing communities;
 - (2) affects more than 1 State or a major fishery managed by a Council or interstate fishery commission; and
 - (3) is determined by the Secretary to be a commercial fishery failure under section 312(a) of this Act or a fishery resource disaster or section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)).

Appendix 4. February 21, 2007 fishery resource disaster letter from Governor Patrick to Secretary of Commerce Gutierrez.



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT

STATE HOUSE • BOSTON 02133

(617) 725-4000

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

February 21, 2007

Hon. Carlos M. Gutierrez
U.S. Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Secretary Gutierrez:

I hereby seek a declaration of a fisheries resource disaster affecting the Massachusetts commercial fishing industry, based on sections 312 and 315 of the Magnuson-Stevens Fishery Conservation and Management Act as amended by the Reauthorization Act of 2006. Please take this initial request under advisement while I work with local representatives, experts, and stakeholders over the next few weeks to document the nature and extent of the economic disaster affecting the Massachusetts fishing fleet and related industries. By April 9, 2007, I will submit documentation to substantiate this request for a disaster declaration based on the economic losses suffered by the Commonwealth's coastal and fishing communities due to regulatory restrictions.

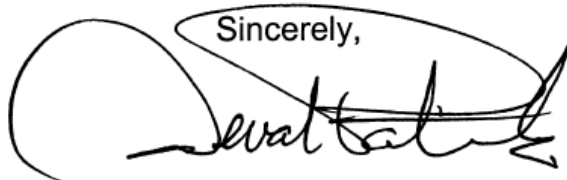
Since 1994, Amendments 5, 7, and 13 to the Northeast Multispecies Fishery Management Plan have significantly reduced the area and the number of days Massachusetts vessels are allowed to fish. Most recently, the fishery management plan's Framework Adjustment 42, which became effective November 22, 2006, reduced the fishing days available to the inshore groundfishing fleet by an additional 50 percent. This latest reduction, which disproportionately impacts Massachusetts vessels as compared to fleets elsewhere in the region, threatens the survival of this important segment of our commercial fishing industry.

Carlos M. Gutierrez
February 21, 2007
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Section 215 of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (P.L. 109-479) mandates a review of the potential impacts of Framework 42 within 30 days of the January 12, 2007 implementation of the Act. I anxiously await the results of that review. It will also be critical to examine the *actual* economic impact of Framework 42 based on data gathered through the end of the current fishing year on April 30, 2007.

But the concern I hear from the ports of Gloucester and New Bedford, and from the elected representatives of these communities, is that by the time these data are collected and analyzed it may be too late. For that reason, I urge you to: (1) declare a fisheries resource disaster based on the evidence we compile from current landings data and other sources, and (2) make available the disaster relief that will allow this historic and vital Massachusetts industry to survive this period of severe regulatory restriction.

Although the crisis here is immediate, the challenge of reviving both fish stocks and a vital industry is long-term in nature. I look forward to working with our Congressional delegation and with you and the National Marine Fisheries Service in developing a regulatory regime that is fair and equitable to all. Conserving natural resources and preserving our fishing communities are, I believe, of universal concern.

Sincerely,


cc: William Hogarth, National Marine Fisheries Service
Pat Kurkul, NOAA Fisheries – NERO
Senator Edward Kennedy
Senator John Kerry
Representative Barney Frank
Representative John Tierney
Representative William Delahunt
Ian Bowles, EOE
Tom French, DFG
Paul Diodati, DMF