

Framework Adjustment 40A to the Northeast Multispecies Fishery Management Plan

Including an

Environmental Assessment
Regulatory Impact Review
Initial Regulatory Flexibility Analysis



Prepared by the
New England Fishery Management Council
in consultation with the
Mid-Atlantic Fishery Management Council
National Marine Fisheries Service

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Cover photograph: Haddock separator trawl, courtesy of Manomet Center for Conservation Sciences.

1.0 EXECUTIVE SUMMARY

In New England, the New England Fishery Management Council (NEFMC) is charged with developing management plans that meet the requirements of the Magnuson-Stevens Act (M-S Act). The Northeast Multispecies Fishery Management Plan (FMP) specifies the management measures for twelve groundfish species (cod, haddock, yellowtail flounder, pollock, plaice, witch flounder, white hake, windowpane flounder, Atlantic halibut, winter flounder, yellowtail flounder, ocean pout) off the New England and Mid-Atlantic coasts. The FMP has been updated through a series of amendments and framework adjustments. The most recent change, published as Amendment 13, was approved by the National Marine Fisheries Service in March, 2004 and became effective on May 1, 2004. This amendment adopted a broad sweep of management measures in order to achieve fishing mortality targets and meet other requirements of the M-S Act.

For several stocks, the mortality targets adopted by Amendment 13 represented substantial reductions from existing levels. For other stocks, the targets were at or higher than existing levels and mortality could remain the same or even increase. Because most fishing trips in this fishery catch a wide range of species, it is impossible to design measures that will selectively change mortality for individual species. The management measures adopted by the amendment to reduce mortality where necessary are also expected to reduce fishing mortality unnecessarily on other, healthy stocks. As a result of these lower fishing mortality rates, yield from healthy stocks is sacrificed and the management plan may not provide optimum yield - the amount of fish that will provide the greatest overall benefit to the nation.

In order to increase the fishing effort on and yield from healthy stocks, Amendment 13 created a structure that allows for the development of programs to target healthy stocks. The amendment also included four specific programs, but only two were approved and implemented on May 1, 2004. The **primary purpose** of this action is to adopt programs that will provide additional opportunities to target healthy stocks in order to achieve optimum yield. Without these programs, the fishery will not achieve optimum yield and the commercial fishing industry and communities will suffer economic losses. These programs will also mitigate the economic and social impacts caused by the effort reductions adopted by Amendment 13.

A **secondary purpose** of this framework is to revise a measure adopted by Amendment 13 that is believed to be overly restrictive and that may unintentionally shift fishing effort onto unhealthy stocks. Amendment 13 adopted a system to coordinate management with Canada of cod, haddock, and yellowtail flounder on eastern Georges Bank. As part of this system, under certain conditions vessels are restricted to fishing in two defined areas. There is a concern that this restriction is so onerous that vessels will not choose to fish in one of the areas and will instead fish in inshore areas on unhealthy stocks.

Before describing the proposed measures, a brief review of the primary effort control used in the multispecies fishery is in order. The FMP restricts the number of days that vessels can fish by allocating each limited access permit a specific amount of days-at-sea (DAS). Amendment 13 further defined three categories of DAS. For each permit, the number of DAS in each category was determined based on the vessels history of fishing for regulated groundfish during the period 1996 through 2001 (based on fishing years). The DAS categories are:

- Category A: These DAS can be used to target any regulated groundfish stock, subject to the restrictions on gear, areas, and landing limits that are defined by the FMP.

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- Category B: These DAS are used to target healthy groundfish stocks – that is, stocks that are not overfished and that are not subject to overfishing. Programs to use Category B DAS prescribe specific conditions for their use.
- Category C: These DAS cannot be used, but remain associated with a permit. As stocks rebuild, in the future some of these DAS may be re-allocated into other categories and may be used.

In addition, Amendment 13 defined two sub-categories for Category B DAS:

- Category B (regular): According to Amendment 13, these DAS would be used to target healthy stocks, but the details were not defined.
- Category B (reserve): These DAS can only be used in Special Access Programs (SAPs) – programs with specific requirements defined based on data that show the activity will not harm stocks of concern.

This action implements measures that govern the use of Category B DAS to target healthy stocks.

Proposed Action

The proposed action implements five specific management measures. A general description of each measure is provided below. The specific details for each measure are provided in the framework document, section 4.0.

Category B DAS Incidental Catch TACs: Amendment 13 adopted strict mortality targets for stocks of concern. One of the primary tools used to reduce fishing mortality for those stocks was a reduction in DAS – in particular, Category A DAS. Any increase in fishing effort that results from using Category B DAS could threaten the mortality objectives of Amendment 13 if the catch of stocks of concern is not controlled. The proposed action reduces the risk these objectives will be compromised by specifying the catch (landings and discards) of stocks of concern that can be caught on a Category B DAS. This measure specifies the total allowable catch (TAC, landings and discards) of the primary stocks of concern that can be caught while using Category B DAS, and allocates those TACs to specific Category B DAS programs. The proposed incidental catch TACs, and the proposed allocations to Category B DAS programs, are shown below. These TACs are based on an evaluation of the likely impacts of Amendment 13. They are set at very low levels (five percent or less) of the target TACs for each stock. The TACs will be recalculated every two years based on current stock status; changes to the percentage allocations can only be made in a future management action (framework adjustment or amendment).

In addition to the overall incidental catch TAC, this measure allocates that incidental catch TAC to the programs that will use Category B DAS. In this action, the only stock that is allocated in this manner is Georges Bank cod, because data show the proposed SAPs are likely to catch only this one stock in any quantities. The percentage allocation to specific programs can be changed in a future management action, while the TACs will be recalculated during the periodic adjustment process.

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	Percentage of Total Target TAC	Incidental Catch TAC		
		2004	2005	2006
GOM cod	Two	97	127	149
GB cod	Two	79	97	127
CC/GOM yellowtail	Two	18	25	21
Plaice	Five	185	181	151
White Hake	Two	77	76	76
SNE/MA Yellowtail	Five	35	99	166
SNE/MA Winter Flounder	Five	143	178	222
Witch Flounder	Five	259	350	383

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

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

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

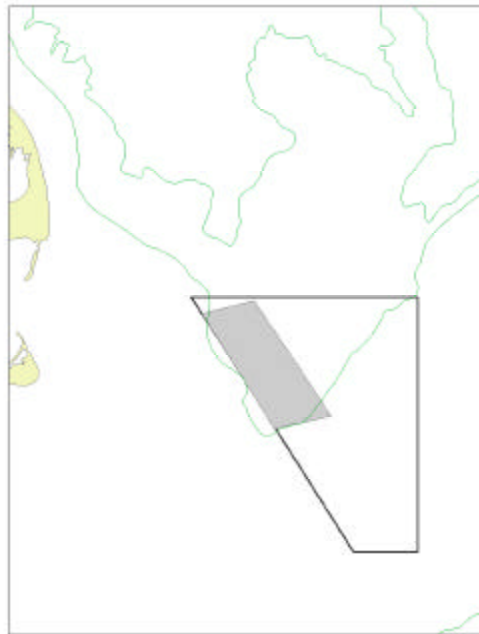
Category B (regular) DAS Pilot Program: This program is designed to test the concept of using Category B (regular) DAS for a one-year period (November 1, 2004 through October 31, 2005). The Pilot Program allows the controlled use of Category B (regular) DAS to target healthy stocks. Vessels can use Category B (regular) DAS to target healthy stocks, but are subject to a number of reporting requirements and are limited to very small catches of stocks of concern. Legal-sized regulated groundfish cannot be discarded while using a Category B (regular) DAS. If a vessel exceeds the low landing limits for a stock of concern, it must “flip” to a Category A DAS – that is, notify NMFS and fish on a Category A DAS for the entire trip. There are strict reporting requirements, including the requirement that all participants have a Vessel Monitoring System (VMS). While vessels must comply with the minimum gear requirements of Amendment 13, there are no other specific gear requirements for participation.

The program is controlled both by the incidental catch TACs for stocks of concern and by a limit on the total number of Category B (regular) DAS that can be used. The incidental catch TACs are allocated by quarter. If a TAC is caught, the use of Category B (regular) DAS in that stock area is ended for that quarter. Once the TAC is caught for the year, the program is ended for that year. There is one exception: if the white hake TAC is caught, the possession of white hake is prohibited while participating in this program. Only 1,000 Category B (regular) DAS can be used in each of the four quarters of the Pilot Program. For this program, DAS are counted on a calendar day basis.

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Closed Area I (CAI) Hook Gear Haddock SAP: This SAP allows vessels using longline or tub trawl gear to harvest 1,000 metric tons of haddock while fishing in a small area located in the northwest corner of CAI. Fishing in the SAP is only allowed from October 1 through December 31. All vessels participating in the SAP must use a VMS and are subject to specific reporting requirements so that catches are monitored daily. The requirements for vessels in the GB Hook Sector differ from those for vessels that are not in the sector. Vessels in the hook sector cannot discard legal size cod and do not have a landing limit for cod, but all cod catches apply against the sector's GB cod allocation. Vessels that are not in the hook sector are limited to 500 lbs./DAS of cod, with a maximum of 4,000 lbs./trip. Cod catches by non-sector vessels fishing on a Category B (regular or reserve) DAS are counted against the GB cod incidental catch TAC for this SAP. Vessels not in the hook sector can use any type of DAS to fish in the SAP. If fishing on a Category A DAS, they can fish inside and outside the SAP area on the same trip but must comply with the most restrictive regulations in effect for the area fished and must report catches when leaving the SAP area. The program is ended for all vessels if the haddock TAC is caught, and non-sector vessels cannot participate in the program while using Category B DAS if the cod incidental catch TAC is caught.



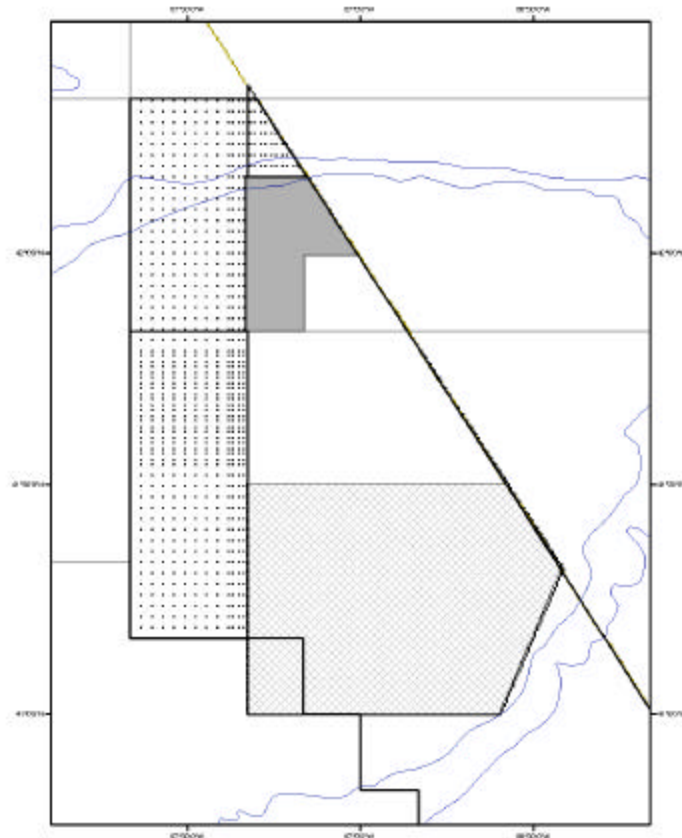
CAI hook gear haddock SAP area (shaded)

Closed Area II (CAII) Haddock SAP: This SAP provides an opportunity to target haddock while fishing on a Category B DAS in, and near, CAII using gear that does not catch stocks of concern. The Pilot Program will be in effect for two years from the date of implementation. Catches of haddock and cod count against the U.S./Canada Resource Sharing Understanding TAC. In addition, catches of cod while fishing on a Category B DAS are applied against the GB cod incidental catch TAC. If the incidental catch TAC is caught, fishing in the SAP on a Category B DAS is ended. Gear must be used that reduced the catch of cod and other stocks of concern. At present, the only approved gear is a haddock separator trawl, but the Regional Administrator may approve other gear in the future. Vessels are limited to a cod possession limit of 1,000 lbs., regardless of length of the trip. Legal-sized cod cannot be discarded while fishing in this SAP on a Category B DAS; if the possession limit is exceeded, the vessel operator must notify NMFS and change the DAS to a Category A DAS. This same possession limit is adopted for the

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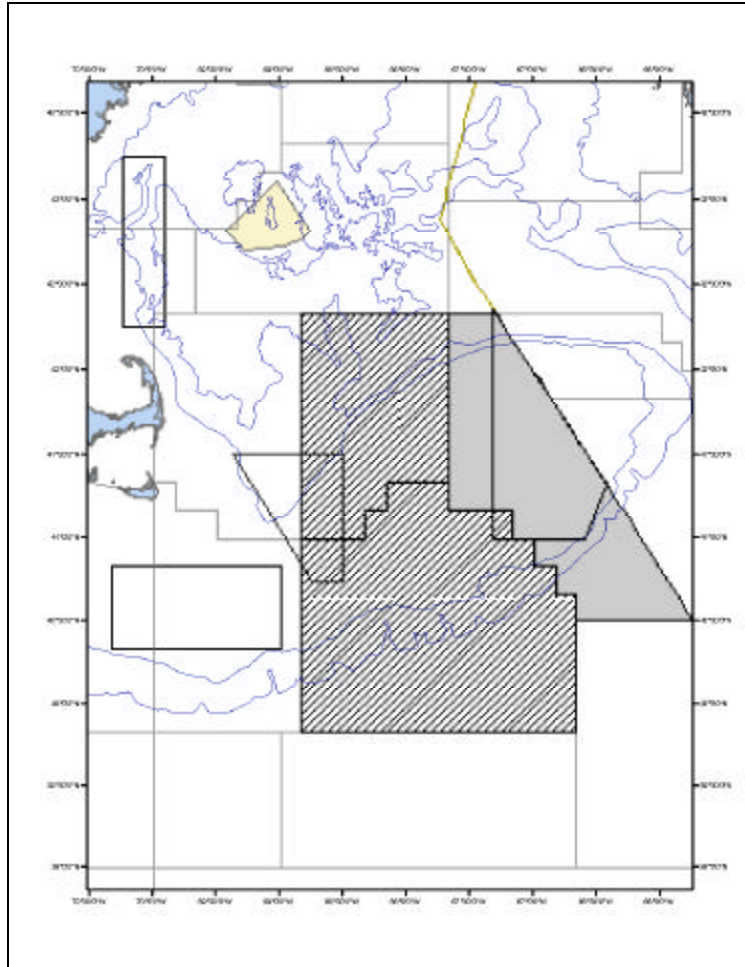
CAII Yellowtail Flounder SAP in order to simplify compliance and administration of the cod limit for trips that participate in both SAPs.



Closed Area II haddock SAP area (stippled). Crosshatched area is the CAII yellowtail flounder SAP area; shaded area is the cod Habitat Area of Particular Concern (HAPC).

Combined Trips to the Western U.S./Canada Area: Regulations implementing Amendment 13 prevent vessels from fishing in the Western U.S./Canada area and other areas on the same trip. This measure would allow a vessel to fish in the Western U.S./Canada area, and outside the area, on the same trip. Vessels would still not be allowed to fish in the eastern U.S./Canada area on the same trip. Vessels must comply with additional reporting requirements so that catches can be correctly assigned to the proper statistical area and the U.S./Canada GB yellowtail flounder TAC can be monitored on a daily basis.

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Western U.S./Canada Area (cross hatched) and eastern U.S./Canada area (shaded)

Summary of Environmental Consequences

The environmental impacts of this action are discussed in detail in section 7.0. Biological impacts are described in section 7.2.1, impacts on essential fish habitat are described in section 7.2.2, impacts on endangered and other protected species are described in section 7.2.3, the economic impacts are described in section 7.2.4, and social impacts are described in section 7.2.5. Cumulative effects are described in section 7.7.

Biological Impacts

Overall, this action is not expected to have significant biological impacts. The proposed action will create opportunities for fishermen to target healthy groundfish stocks. These opportunities could increase fishing effort by between 2,500 and 4,400 DAS per year. As a result of this action, fishing mortality is expected to increase on GB haddock primarily as a result of the two SAPs. Fishing mortality is also expected to increase on other healthy groundfish stocks targeted through the Category B (regular) DAS pilot program. The stocks that are most likely to be targeted in this program include GOM haddock, GOM winter flounder, pollock, GB haddock, GB winter flounder, and GB yellowtail flounder. While redfish is another stock that could be targeted, the minimum mesh regulations will make it difficult to target redfish and so mortality for that stock is not likely to increase. Based on the analysis in

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Amendment 13 and in this document, the fishing mortality for these stocks that will result is not expected to exceed the overfishing thresholds established by Amendment 13.

Fishing mortality may also increase for several groundfish stocks of concern that may be caught under these programs. The catches of these stocks will be constrained by a “hard” TAC. This TAC is established at a level so that, based on the analyses in Amendment 13 and this document, the risk of exceeding rebuilding targets will be small.

The proposed action will result in an increase in fishing effort as compared to the No Action alternative. As a result, there may be increased impacts on other species that are caught by vessels fishing for groundfish. These impacts will not be significant. Fishing mortality may increase on monkfish and skates if vessels use the Category B (regular) DAS pilot program to target those species. There may also be increased mortality on other species, such as skates, that are caught while targeting groundfish. This action will promote the use of selective gear (e.g. the haddock separator trawl) on Category B DAS that actually reduces catches of skates, lobster, and scallops.

The proposed action may result in increased discards compared to the No Action alternative, but measures are included to minimize discards to the extent practicable. Three of the measures allow for a small increase in fishing effort. All of these measures, however, provide incentives for selective fishing practices. Because the Category B (regular) DAS Pilot Program, the CAI Hook Gear Haddock SAP, and the CAII Haddock SAP have constraints on the incidental catch of regulated groundfish stocks of concern, the development of selective fishing practices will allow fishermen more opportunities to target healthy stocks. The CAII Haddock SAP also requires vessels to use selective fishing gear to participate.

Essential Fish Habitat Impacts

The proposed action is not expected to have a substantial impact on essential fish habitat (EFH). While the action will result in a small increase in fishing effort as compared to the No Action alternative, this increase will not adversely effect EFH. The two SAPs either use gear that has little effect on habitat (e.g. longline gear in the CAI Hook Gear Haddock SAP) or takes place outside of areas restricted to mobile gear to reduce impacts on EFH.

Impacts on Endangered and Other Protected Species

The small effort increases authorized by the proposed action are not expected to have a substantial impact on endangered and other protected species.

Economic Impacts

The proposed action is expected to increase revenues for groundfish fishing vessels. It is difficult, however, to estimate the magnitude of these impacts. There is a great deal of uncertainty over what will be caught and landed in the Category B (regular) DAS Pilot Program and the CAII Haddock SAP. Neither of these programs has been preceded by an experimental fishery that could be used to estimate the likely catches. Indeed, while it is possible to identify target stocks for the Category B (regular) DAS Pilot Program, there is uncertainty over how fishermen will target these species. In the case of the CAI Hook Gear Haddock SAP, there is some information available but the exact mix of species that will be caught and landed is unknown. At the least, overall groundfish revenues are expected to increase by \$2.3 million if all of the incidental catch TACs are caught.

Social Impacts

The proposed action will have positive social impacts, but these impacts will be limited to specific communities that have vessels that can target healthy stocks. For example, benefits from the CAI Haddock SAP will be limited to communities that have larger vessels that can safely prosecute this offshore fishery. The Category B (regular) DAS Pilot Program will only benefit those communities that

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have vessels that can target healthy stocks. Since few healthy stocks are located in the southern New England/Mid-Atlantic Region, ports in those areas are less likely to benefit from this program.

Cumulative Effects

The cumulative effects of this action are not likely to have a substantial impact on any of the valuable economic components (VECs) associated with the multispecies fishery. The overall reductions in fishing effort adopted by previous actions will have a positive impact on groundfish stocks. While the proposed action will result in a small increase in effort, enough controls are included that these increases will not threaten the mortality objectives of the management plan. The effort increases are small enough that they will not have substantial impacts on other species, habitat, or protected species. The cumulative impacts of this proposed action will mitigate some of the negative economic and social impacts of Amendment 13.

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2.4 List of Acronyms

ALWTRP	Atlantic Large Whale Take Reduction Plan
APA	Administrative Procedures Act
ASMFC	Atlantic States Marine Fisheries Commission
CAI	Closed Area I
CAII	Closed Area II
CC	Cape Cod
CPUE	catch per unit of effort
DAM	Dynamic Area Management
DAS	days-at-sea
DFO	Department of Fisheries and Oceans (Canada)
DMF	Division of Marine Fisheries (Massachusetts)
DMR	Department of Marine Resources (Maine)
DSEIS	Draft Supplemental Environmental Impact Statement
EA	Environmental Assessment
EEZ	exclusive economic zone
EFH	essential fish habitat
EIS	Environmental Impact Statement
ESA	Endangered Species Act
F	Fishing mortality rate
FAAS	Flexible Area Action System
FEIS	Final Environmental Impact Statement
FMP	fishery management plan
FSCS	Fisheries Scientific Computer System
FW	framework
FY	fishing year
GAMS	General Algebraic Modeling System
GB	Georges Bank
GIS	Geographic Information System
GOM	Gulf of Maine
GRT	gross registered tons/tonnage
HAPC	habitat area of particular concern
HPTRP	Harbor Porpoise Take Reduction Plan
I/O	input/output
IFQ	individual fishing quota
ITQ	individual transferable quota
IVR	interactive voice response reporting system
IWC	International Whaling Commission
LOA	letter of authorization
LPUE	landings per unit of effort
MA	Mid-Atlantic
MAFAC	Marine Fisheries Advisory Committee
MAFMC	Mid-Atlantic Fishery Management Council
MARFIN	Marine Fisheries Initiative
MEY	maximum economic yield
MMC	Multispecies Monitoring Committee
MMPA	Marine Mammal Protection Act
MPA	marine protected area

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List of Acronyms

MRFSS	Marine Recreational Fishery Statistics Survey
MSFCMA	Magnuson-Stevens Fishery Conservation and Management Act
MSMC	Multispecies Monitoring Committee
MSY	maximum sustainable yield
NAA	No Action Alternative
NAPA	National Academy of Public Administration
NAS	National Academy of Sciences
NEFMC	New England Fishery Management Council
NEFSC	Northeast Fisheries Science Center
NEPA	National Environmental Policy Act
NERO	Northeast Regional Office
NFMA	Northern Fishery Management Area (monkfish)
NLCA	Nantucket Lightship closed area
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NSTC	Northern Shrimp Technical Committee
NT	net tonnage
NWA	Northwest Atlantic
OBDBS	Observer database system
OLE	Office for Law Enforcement (NMFS)
OY	optimum yield
PBR	Potential Biological Removal
PDT	Plan Development Team
PRA	Paperwork Reduction Act
PREE	Preliminary Regulatory Economic Evaluation
RFA	Regulatory Flexibility Act
RMA	Regulated Mesh Area
RPA	Reasonable and Prudent Alternatives
SA	Statistical Area
SAFE	Stock Assessment and Fishery Evaluation
SAP	Special Access Program
SARC	Stock Assessment Review Committee
SAW	Stock Assessment Workshop
SBNMS	Stellwagen Bank National Marine Sanctuary
SEIS	Supplemental Environmental Impact Statement
SFA	Sustainable Fisheries Act
SFMA	Southern Fishery Management Area (monkfish)
SIA	Social Impact Assessment
SNE	southern New England
SNE/MA	southern New England-Mid-Atlantic
SSB	spawning stock biomass
SSC	Social Science Committee
TAC	total allowable catch
TED	turtle excluder device
TEWG	Turtle Expert Working Group
TMGC	Trans-boundary Management Guidance Committee
TMS	ten minute square
TRAC	Trans-boundary Resources Assessment Committee
TSB	total stock biomass
USCG	United States Coast Guard

CONTENTS

List of Acronyms

USFWS	United States Fish and Wildlife Service
VMS	vessel monitoring system
VPA	virtual population analysis
VTR	vessel trip report
WGOM	Western Gulf of Maine
WO	weighout
YPR	yield per recruit

CONTENTS
List of Acronyms

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