

## APPENDIX A

### Methods to Analyze the Category B (regular) DAS Pilot Program

Framework 40A proposes a pilot program where a limited number of regular B DAS would be used (a maximum of 2000) subject to prescribed trip limits and a hard TAC on the incidental catches of stocks of concern. Heretofore, PDT advice has been that the ability to evaluate how and in what manner regular B DAS fisheries might develop is difficult to predict. Nothing in the following should be construed as changing this position since adjustments to fishing practices cannot be predicted. However, based on the specific conditions proposed for Framework 40A makes it possible to at least identify trips that meet all of the proposed trip limits and evaluate the extent to which such reported trips form identifiable fisheries that may be likely candidates for use of regular B DAS.

To develop an initial data set, VTR records from FY2001 were queried to identify trips that met the following criteria:

- Limited access permit holder
- At least one pound of regulated groundfish was kept
- Reported landings per day absent was less than or equal to the following 25 pounds per DA of each CCGOM yellowtail flounder and SNE/MA yellowtail flounder and less than or equal to 100 pounds per DA each of SNE/MA winter flounder, GOM cod, GB cod, American plaice, witch flounder, and white hake (note that days absent from the VTR was rounded up to the nearest whole day consistent with the proposed measure)
- Gear used was limited to otter trawl, sink gillnet, bottom longline, or hook and line
- Reported mesh size for otter trawl and gillnet gears was at least 6-inches (the minimum mesh required for FY2001)

Based on this initial query a total of 4,102 trips were identified. Landed pounds for the following species were identified: all 10 regulated groundfish plus monkfish, bluefish, butterfish, cusk, summer flounder, scup, black sea bass, dogfish, skates, silver hake, red hake, wolfish, lobster, scallops, squids, and all other species combined. The data were subdivided into gears (hook i.e. hand line, bottom longline, sink gillnet, and otter trawl) and generic stock areas defined as follows; GOM = statistical areas (510, 511, 512, 513, 514, 515) GB = statistical areas (520, 521, 522, 525, 526, 561, 562, 541, 542, 543) and SNE/MA was defined as statistical areas (533, 534, 537, 538, 539 and all area 600 and above).

The combined pounds of all stocks of concern as a percent of total weight of all fish on board are plotted for each gear/stock area combination in Figure 53 through Figure 63. Among these gear/stock combinations there are notable differences both in terms of the total number of “qualifying” trips and the distribution of the contribution of stocks of concern to total landings. For example, only 88 qualifying trips were reported by vessels using hook gear in the GOM (Figure 43). Of these trips, the majority were trips where stocks of concern comprised most of the landings even though landings per DA were still under all required trip limits. The same may be said of hook gear on GB (Figure 44) as well as bottom longline gear in the GOM, GB and in SNE/MA (Figure 45 through Figure 47 respectively). The relatively high proportion of stocks of concern, principally GB and GOM cod, in these four gear/area combinations raise issues concerning the desirability of allowing the use of regular B DAS on trips that are directed on stocks of concern since these trips may represent the lower end of the landings distribution (i.e. busted or poor trips) of a directed cod fishery. Even though the possibility would exist to “flip” the regular B to an A DAS, doing so has been suggested as being a regular B DAS “failure.” Flipping DAS in the context of the limited pilot proposal for this Framework may also prove to be problematic in terms of monitoring the cap on DAS use and the incidental catch TACs.

Unlike the gear/area combinations noted above, the remaining combinations (Figure 48 – Figure 52) indicate that over the range of trips represented in the data there were a substantial number of occasions

where stocks of concern were clearly incidental to the trip. To further explore the composition of these trips, the data were trimmed by deleting any record where the combined landed weight of all stocks of concern was less than or equal to 20% of total weight of fish on board; yielding a total of 2,195 trip records.

Potential regular B DAS fisheries were identified by initially plotting each trip, sorted by the percent of cod on board, using a 100 percent area chart in EXCEL. Sorted in this manner trips of similar composition appear as bands of colors which facilitates identification of potential “fisheries.” After an initial inspection of the chart species that were landed on very few trips or that individually comprised a very low proportion of landings were aggregated into an “other” category. Finally, to facilitate presentation and visual inspection of the chart, data were resorted to improve the ability to identify similarities across trips.

Gulf of Maine Trawl - Based on FY2001 data there were a total of 321 trips that took place inside the Gulf of Maine where landings of stocks of concern were 20% or less of total landed weight. These trips clustered into four clusters of similar landings composition; skates/winter flounder, monkfish/plaice/winter flounder, winter flounder, and mixed trawl (Figure 53). Of these four clusters the skate/winter flounder and winter flounder clusters seem to be the most likely candidates or provide the most likely opportunity to use a regular B DAS in the GOM with low interactions with stocks of concern. The monkfish/winter flounder/plaice cluster also seems to be relatively distinct but only represents about 12 trips.

Since the proposed pilot program would be in effect only during the third and fourth quarters of FY2004 the GOM trawl data were further trimmed to include only trips that took place from November through April. Even though this trimming removed nearly two-thirds of reported trips the clustering of data still indicates that the skate/winter flounder and winter flounder clusters noted above persist (Figure 54).

Georges Bank Trawl – The Georges Bank trawl data does not separate into as distinct a set of clusters compared to the GOM trawl data although a substantial number of trips are comprised almost entirely of yellowtail flounder with small amounts of winter flounder, skates and monkfish (Figure 55). This approximate mix of species persists with declining proportions of yellowtail flounder for at least half of the 215 GB trawl trips with 20% of less incidental landings of species of concern. As the proportion of yellowtail falls below 50% the species composition is dominated by a combination of winter flounder, skates, and monkfish. The data also indicates that some vessels were able to fish almost exclusively on haddock with some incidental landings of cod although the number of such occasions was small. Note that the general composition of landings in quarter 3 and 4 (Figure 56) is quite similar to that for the entire fishing year except that the relative importance of winter flounder figures is less prominent.

Southern New England/Mid-Atlantic Trawl – There were almost 800 trips using trawl gear in the SNE/MA area by limited access multispecies permit holders that used at least six-inch mesh (Figure 57). These trips clustered into three components; 1) a skate fishery with incidental landings of summer flounder, winter flounder and windowpane flounder, 2) a summer flounder fishery with incidental landings of winter flounder, windowpane flounder, and monkfish, and 3) a mixed trawl fishery with varying proportions of many different species. These findings indicate that there may be opportunities to use regular B DAS in the SNE/MA area in a skate fishery and in a mixed flatfish fishery where summer flounder was the primary target. These general findings also hold for quarter 2 and 3 although the number of trips taken in FY2001 from November through April was less than one-third of total trips throughout the entire fishing year (Figure 58).

Gulf of Maine Gillnet – The dominant gillnet fishery in the Gulf of Maine with minimal incidental landings of stocks of concern is the directed monkfish fishery (Figure 59). For all but 76 of the 558

reported trips monkfish was at least 50% of total trip weight. Many of these trips did report incidental amounts of cod but the largest reported landing was less than 600 pounds with the majority of records being less than 100 pounds. In addition to the monkfish fishery there were a small number of trips that landed almost exclusively pollock, dogfish, or haddock or these species were landed in varying combinations. As was the case for other gear/area combinations the majority (almost 75%) of qualifying GOM gillnet trips were taken before quarters 3 and 4. However, as was also the case previously, the clusters of “fisheries” in quarters 3 and 4 are similar to that of the entire fishing year (Figure 60).

Georges Bank Gillnet – In FY2001 the dominant fishery using gillnet gear on Georges Bank with low incidence of stocks of concern was a monkfish/skate fishery where some trips were clearly directed monkfish or directed skate trips while others were combined monkfish/skate trips (Figure 61). This species composition was also evident in quarters 3 and 4 of FY2001 although there were about one-third as many trips (Figure 62).

Southern New England/Mid-Atlantic Gillnet – The composition of landings by vessels using gillnet gear in the SNE/MA statistical areas was nearly identical to that of vessels using gillnet gear on Georges Bank. The dominant species mix was monkfish/skates with a small number of trips where summer flounder comprised the majority of landings (Figure 63). As was the case above, the composition of trips in this area was no different during quarters 3 and 4 (Figure 64) as compared to the entire fishing year.

**Summary**

Based on the data from fishing year 2001 there do appear to be fisheries that were prosecuted in that year that would have required using a groundfish DAS yet had low incidence of stocks of concern. These fisheries (summarized in Table 97) may be likely fisheries where a regular B DAS may be used with a low probability of flipping to an A DAS.

	Otter Trawl	Gillnet
Gulf of Maine	skate/winter flounder winter flounder	monkfish
Georges Bank	yellowtail yellowtail/winter/monkfish/skates winter/monkfish/skates	monkfish skates monkfish/skates
Southern New England/Mid-Atlantic	skates skates/fluke fluke/monkfish	monkfish skates monkfish/skates

Table 97 - Summary of Potential Regular B DAS Fisheries by Area and Gear

Figure 1. Percent of Stocks of Concern of Total Landed Weight (GOM Hook)

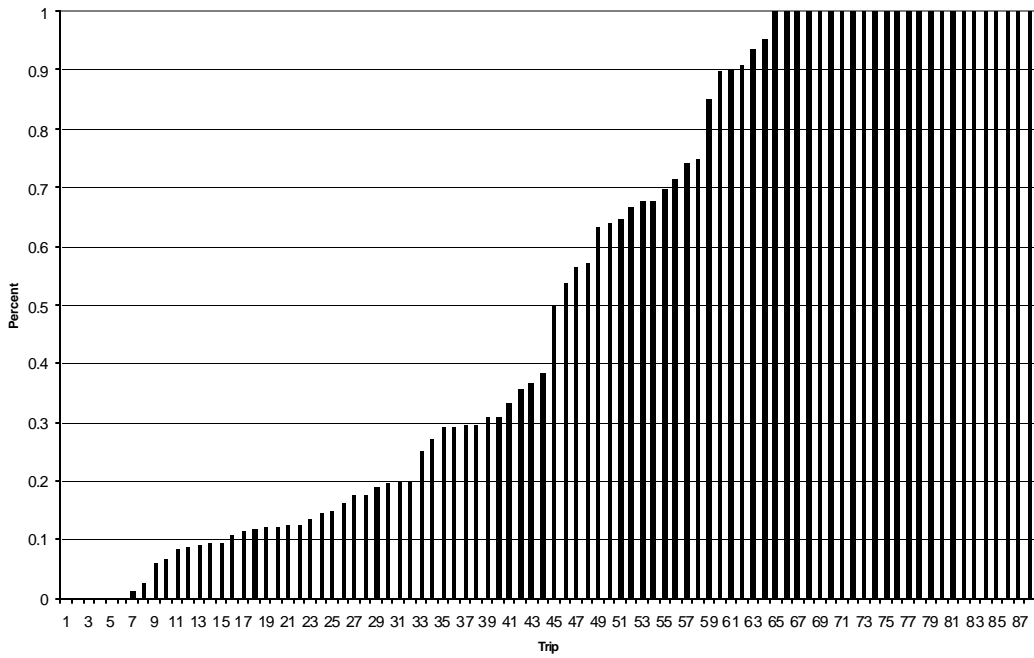


Figure 43– GOM hook: percent of total landed weight of stocks of concern

Figure 2. Percent of Stocks of Concern of Total Landed Weight (GB Hook)

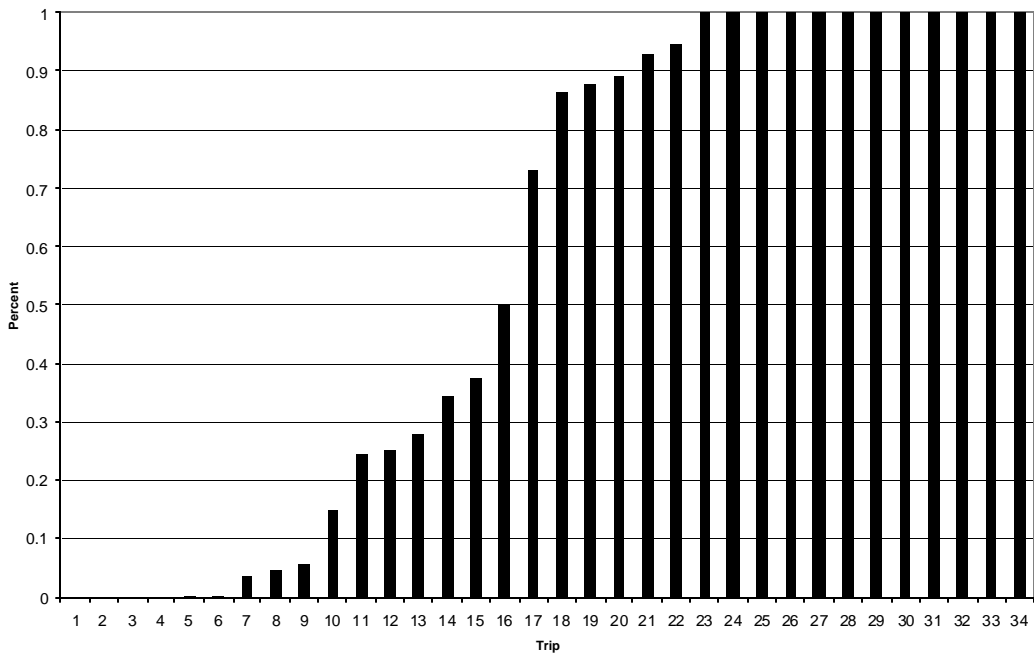


Figure 44 – GB hook: percent of total landed weight of stocks of concern

Figure 3. Percent of Stocks of Concern of Total Landed Weight (GOM Longline)

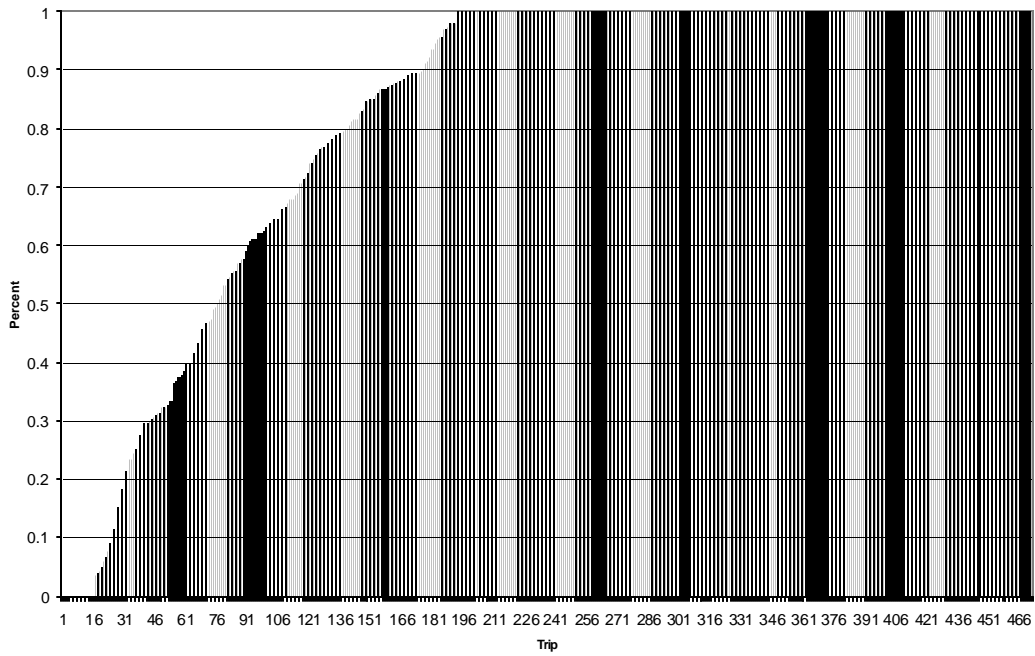


Figure 45 – GOM longline: percent of total landed weight of stock of concern

Figure 4. Percent of Stocks of Concern of Total Landed Weight (GB Longline)

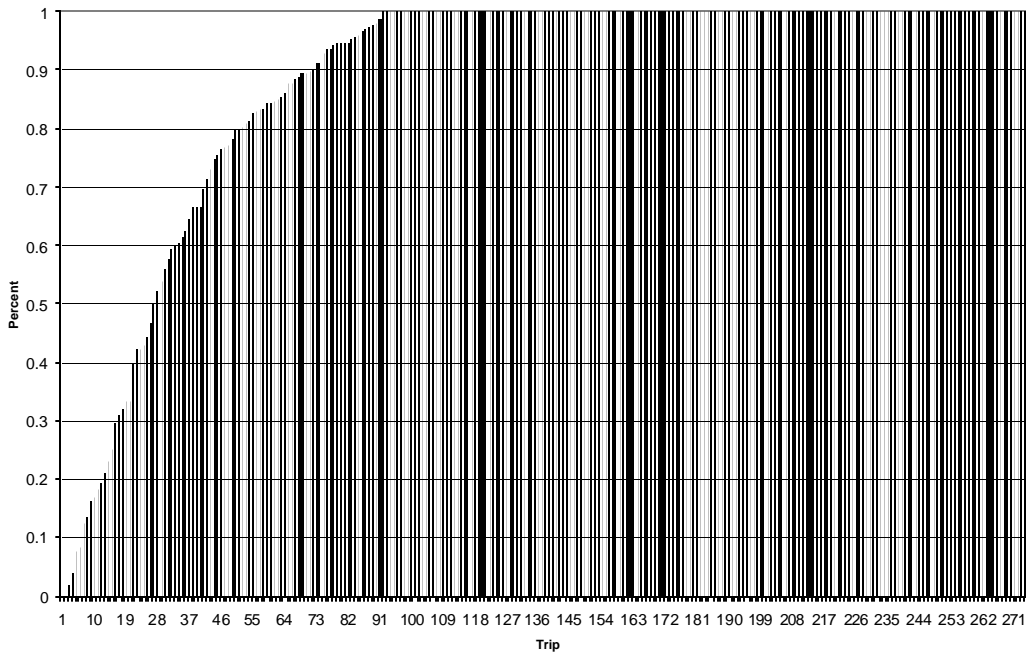


Figure 46 – GB longline: percent of total landed weight of stocks of concern

Figure 5. Percent of Stocks of Concern of Total Landed Weight (SNE/MA Longline)

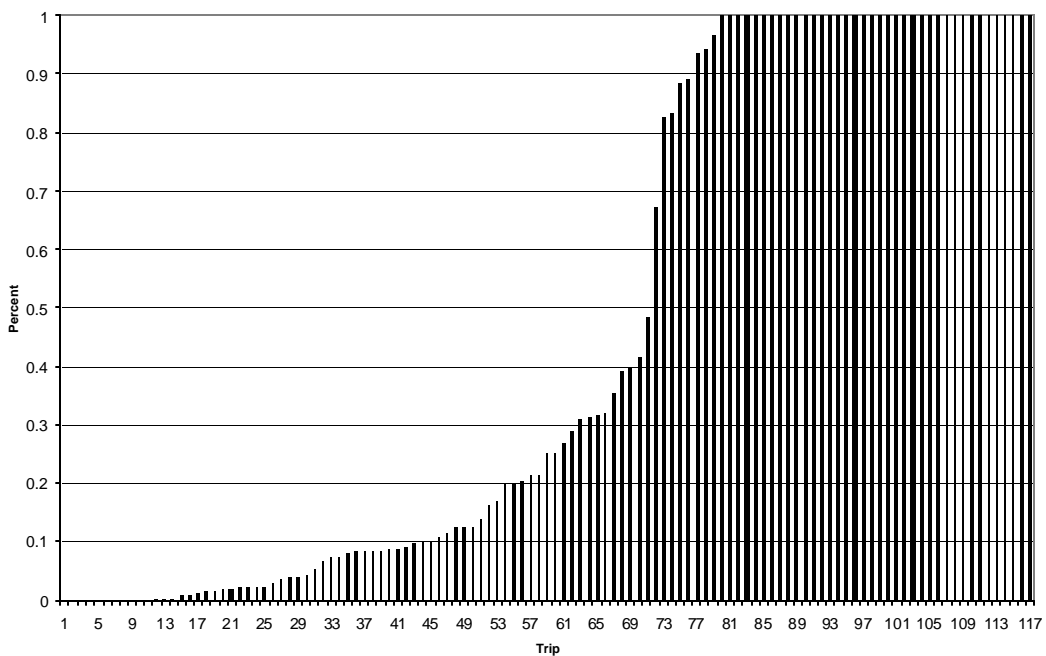


Figure 47 – SNE/MA longline: percent of total landed weight of stocks of concern

Figure 6. Percent of Stocks of Concern of Total Landed Weight (GOM Trawl)

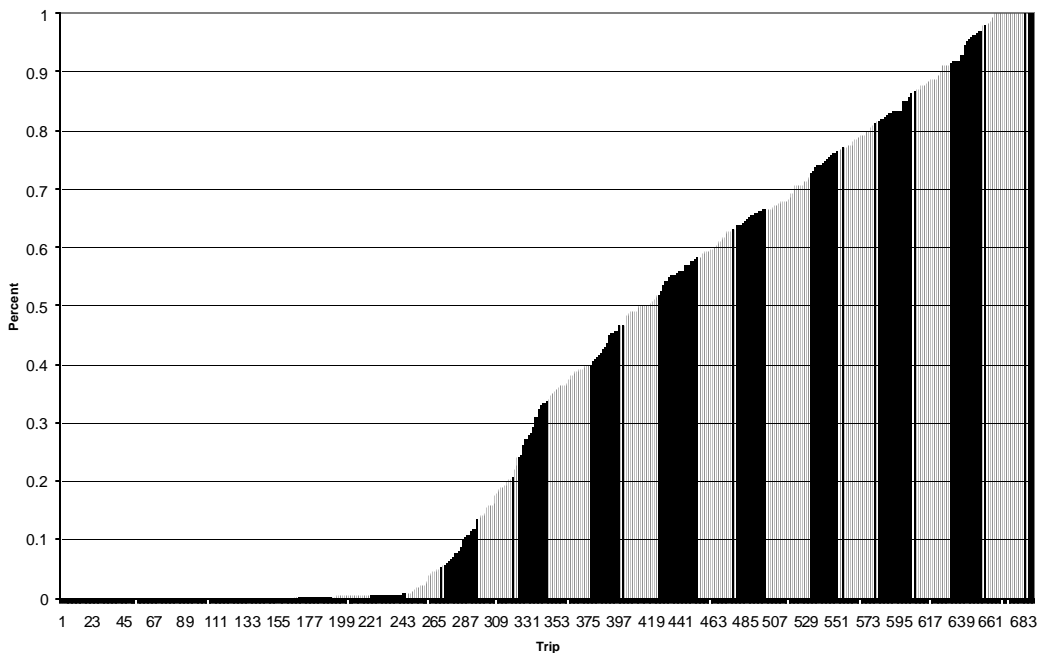


Figure 48 – GOM trawl: percent of total landed weight of stocks of concern

Figure 8. Percent of Stocks of Concern of Total Landed Weight (SNE Trawl)

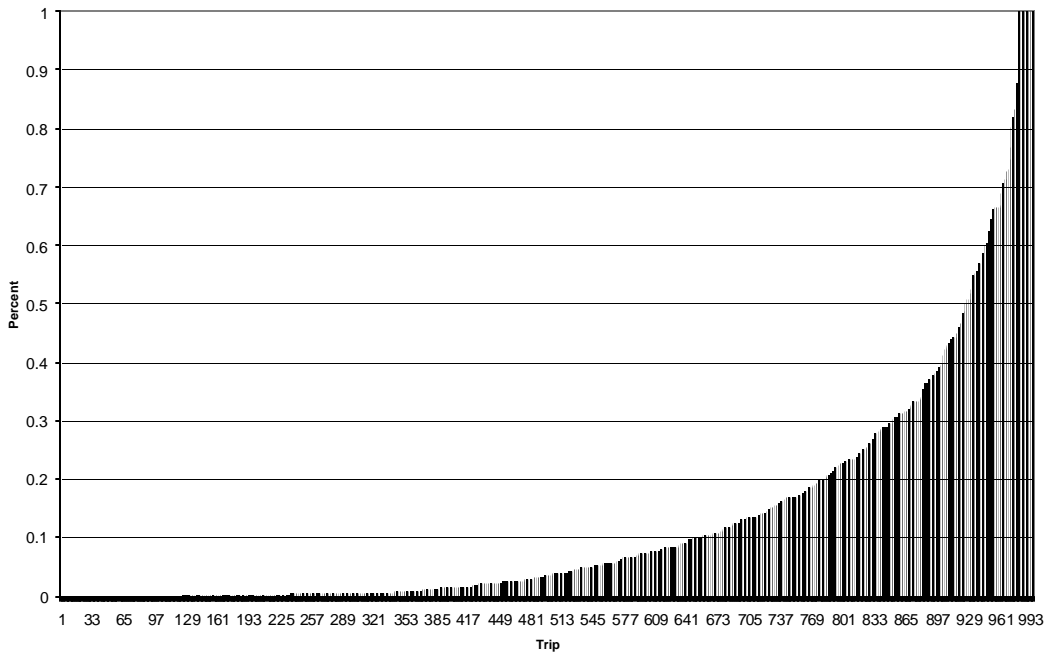


Figure 49 – SNE trawl: percent of total landed weight of stocks of concern

Figure 9. Percent of Stocks of Concern of Total Landed Weight (GOM Gillnet)

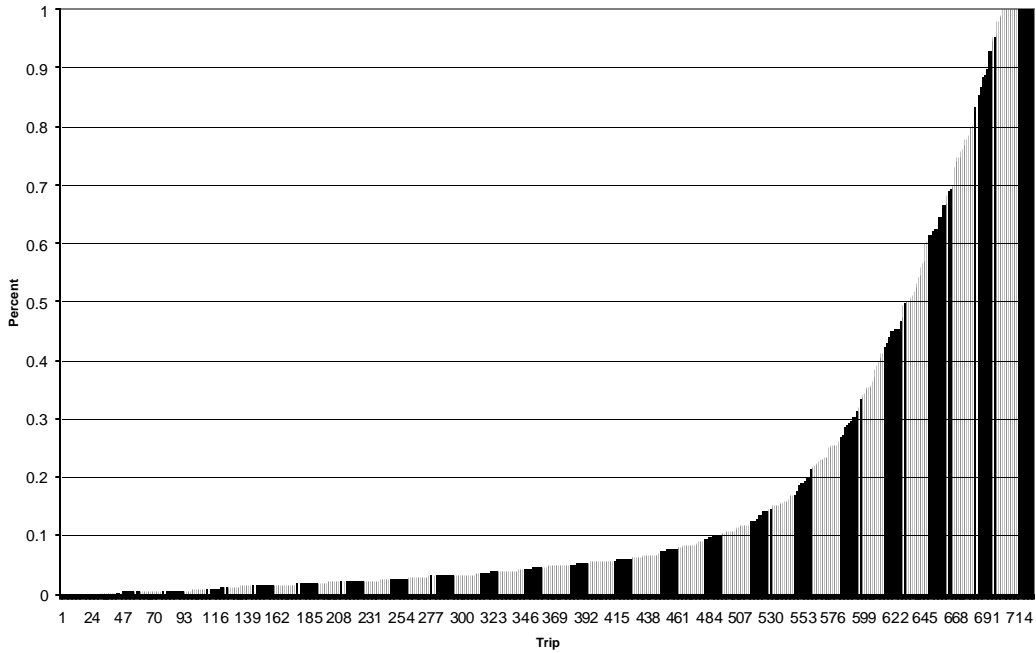


Figure 50 – GOM gillnet: percent of total landed weight of stocks of concern



Figure 10. Percent of Stocks of Concern of Total Landed Weight (GB Gillnet)

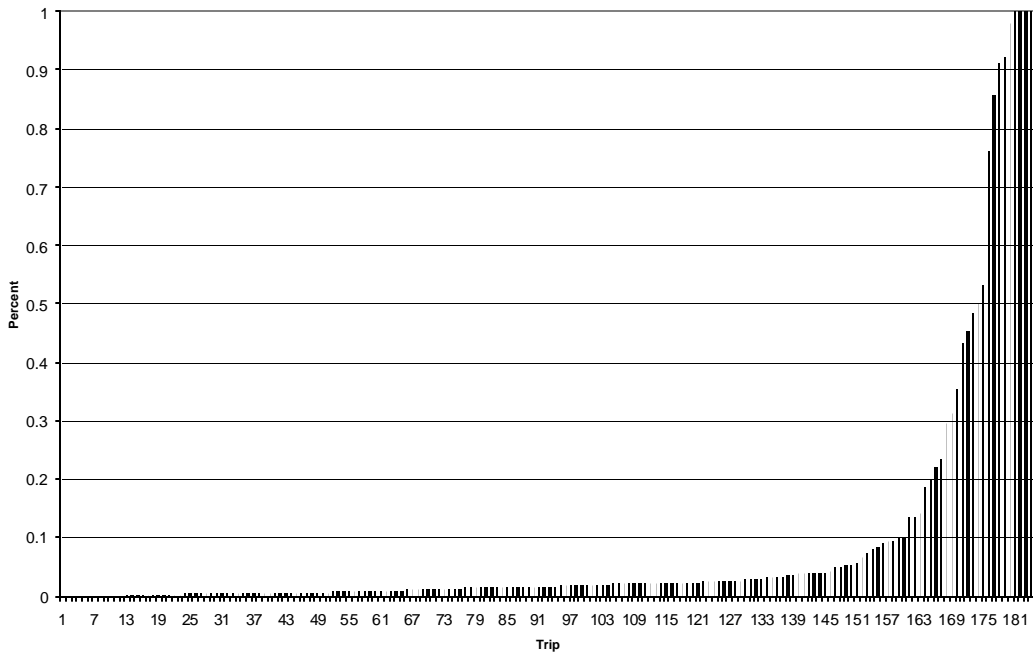


Figure 51 – GB gillnet: percent of total landed weight of stocks of concern

Figure 11. Percent of Stocks of Concern of Total Landed Weight (SNE/MA Gillnet)

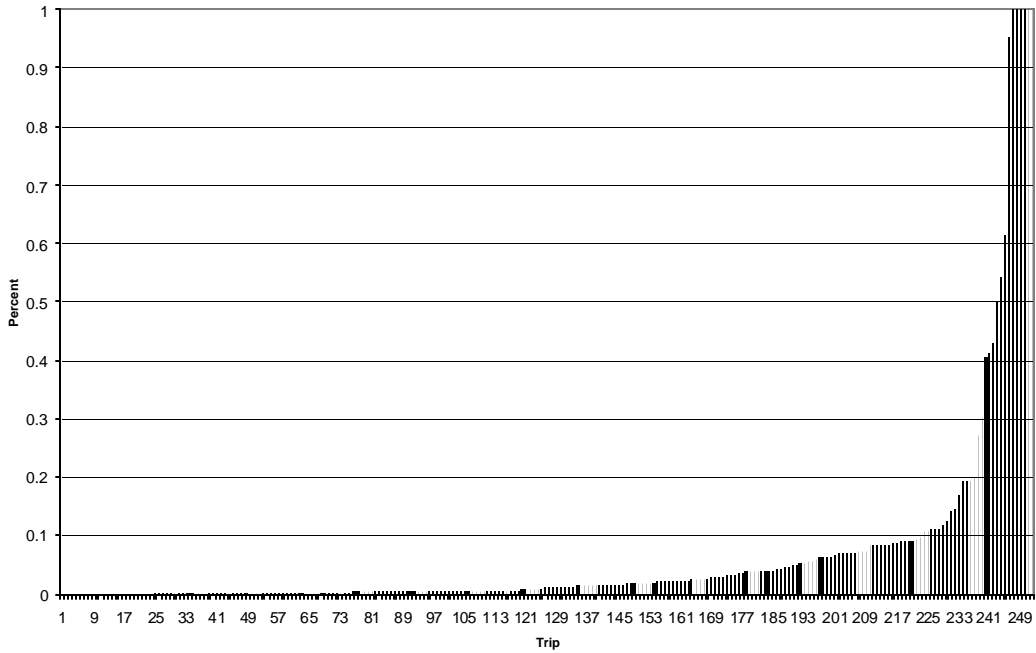


Figure 52 – SNE/MA gillnet: percent of total landed weight of stocks of concern

Figure 12. Landings Composition of GOM Trawl (FY2001)

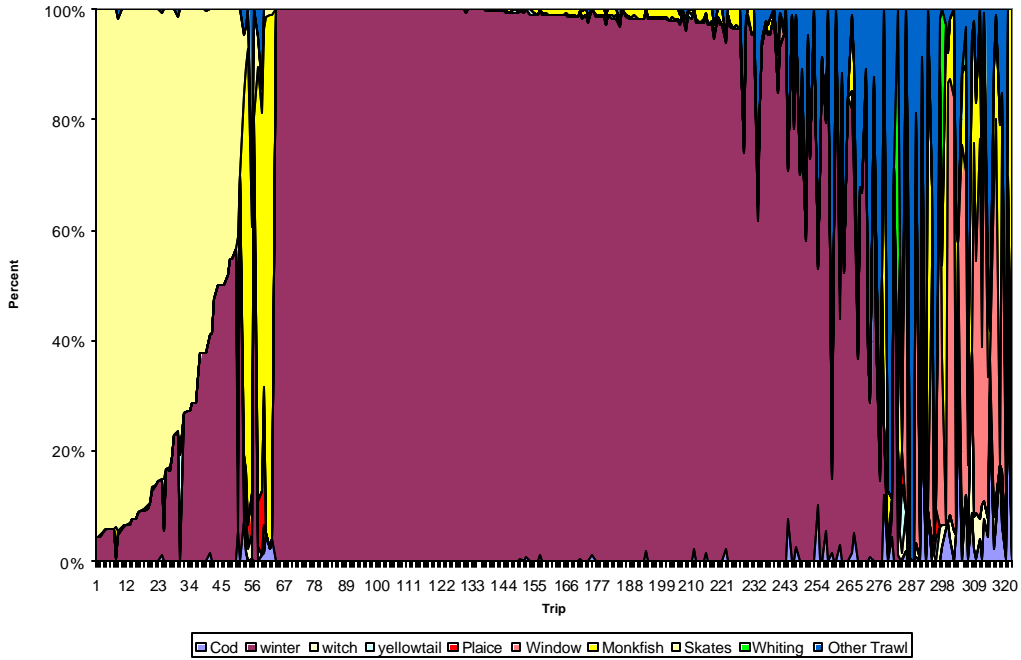


Figure 53 – GOM trawl landings composition (FY 2001)

Figure 13. Landings Composition of GOM Trawl (FY2001 Quarter 3 & 4)

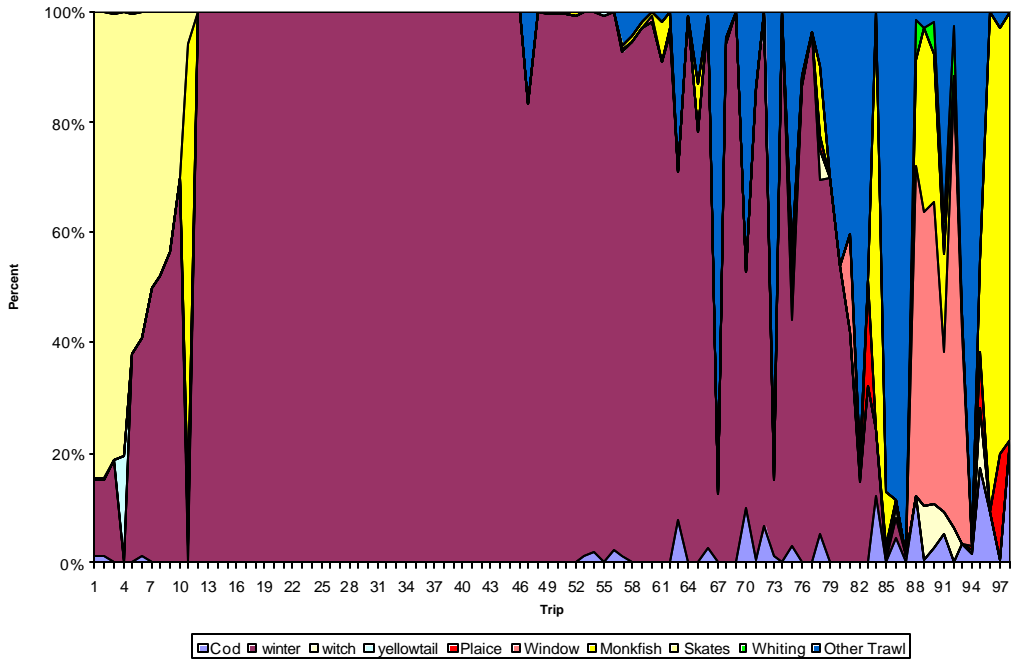


Figure 54 – GOM trawl landings composition, quarters 3 and 4 (FY 2001)

Figure 14. Landings Composition GB Trawl (FY2001)

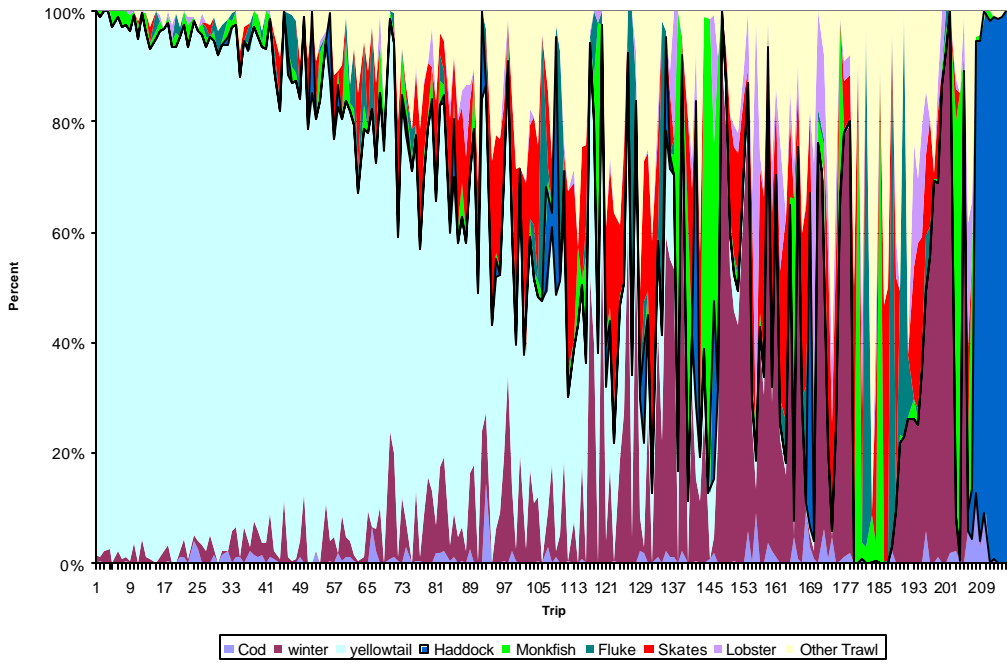


Figure 55 – GB trawl landings composition (FY 2001)

Figure 15. Landings Composition GB Trawl (FY2001 Quarter 3 & 4)

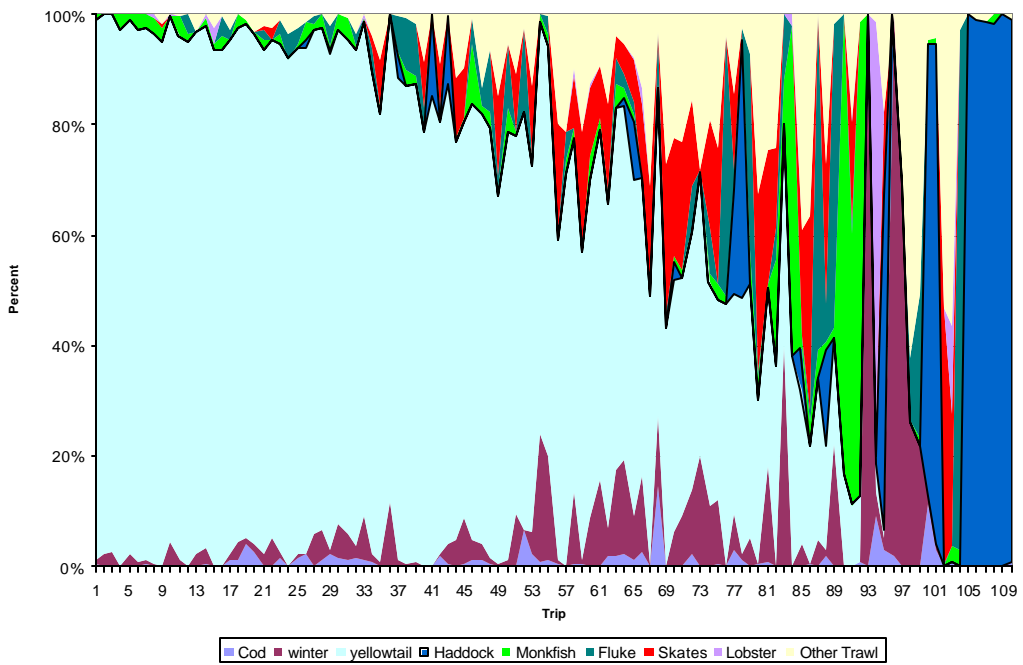


Figure 56 – GB trawl landings composition, quarters 3 and 4 (FY 2001)

Figure 16. Landings Composition for SNE/MA Trawl (FY2001)

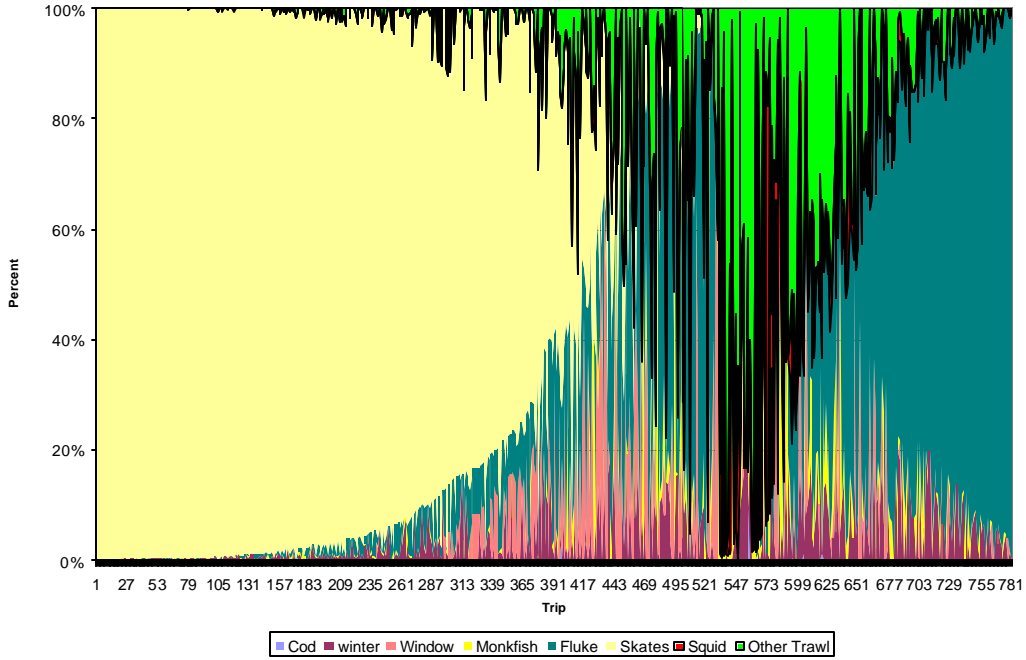


Figure 57 – SNE/MA trawl landings composition (FY 2001)

Figure 17. Landings Composition for SNE/MA Trawl (FY2001 Quarter 3 & 4)

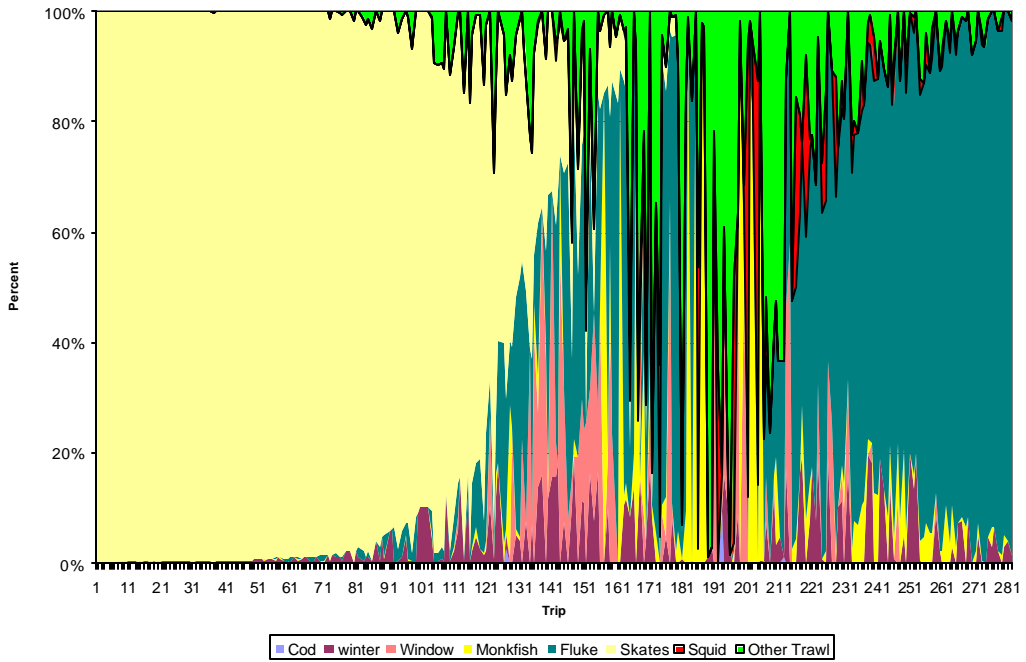


Figure 58 – SNE/MA trawl landings composition, quarters 3 and 4 (FY 2001)

Figure 18. Landings Composition for GOM Gillnet (FY2001)

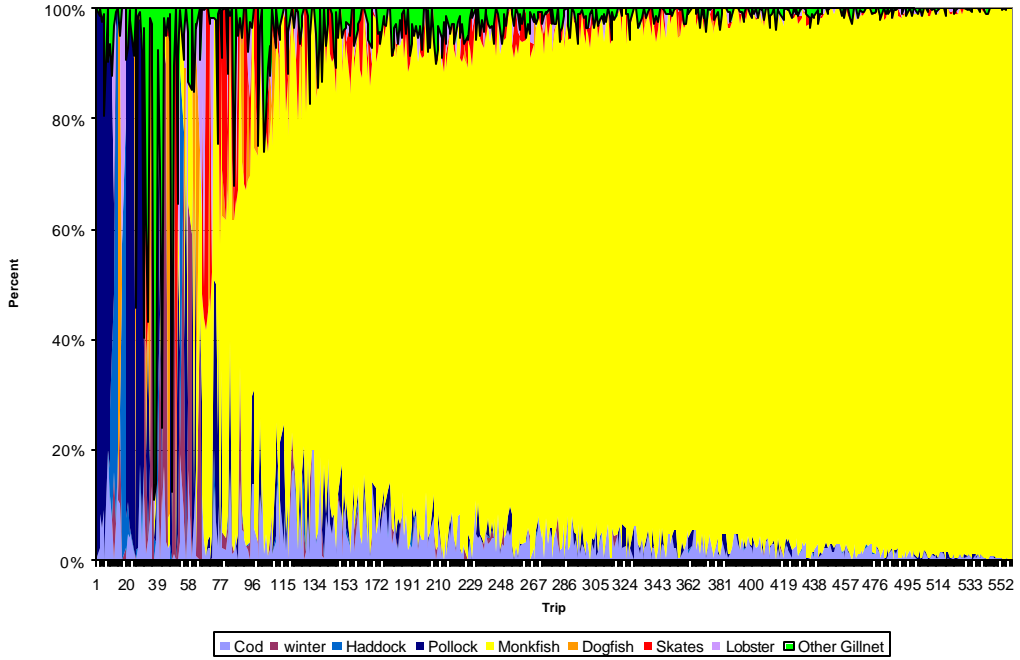


Figure 59 – GOM gillnet landings composition (FY 2001)

Figure 19. Landings Composition for GOM Gillnet (FY2001 Quarter 3 & 4)

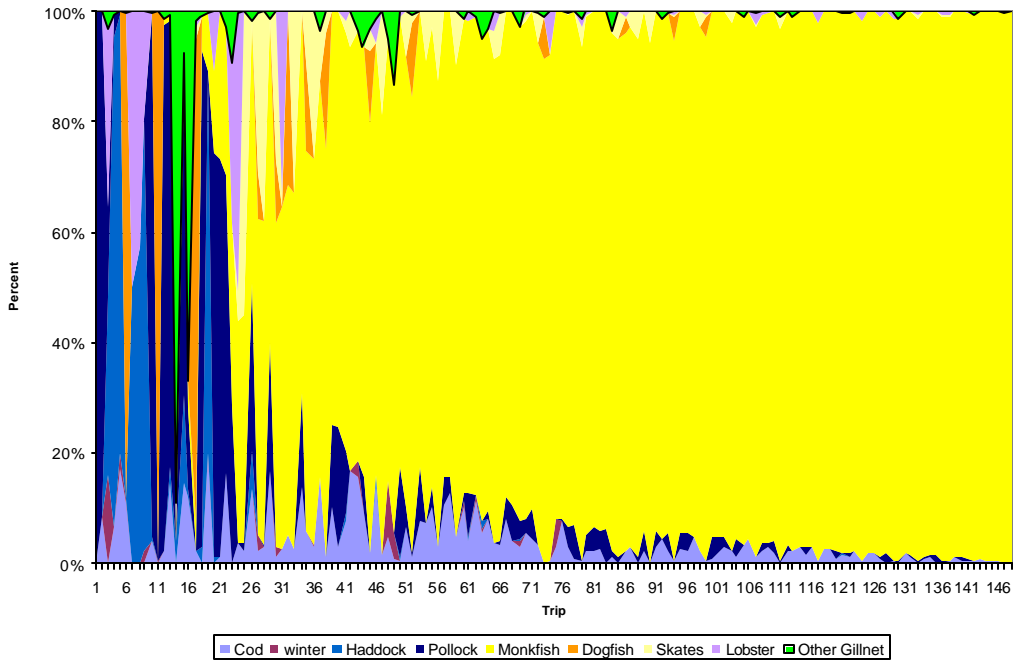


Figure 60 – GOM gillnet landings composition, quarters 3 and 4 (FY 2001)

Figure 20. Landings Composition of GB Gillnet (FY2001)

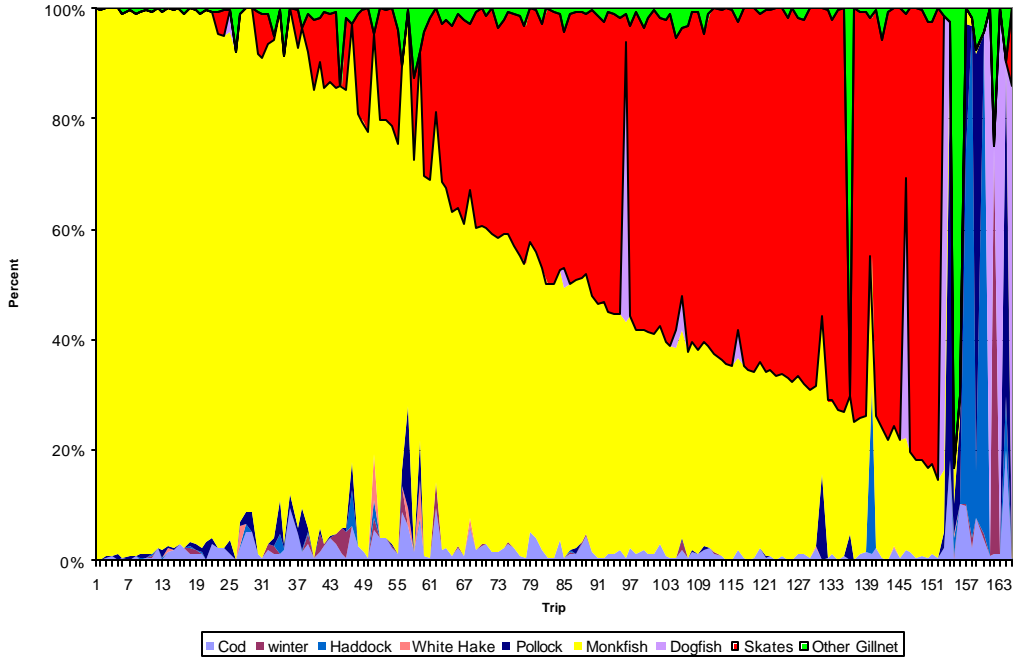


Figure 61 – GB gillnet landings composition (FY 2001)

Figure 21. Landings Composition of GB Gillnet (Quarter 3 & 4)

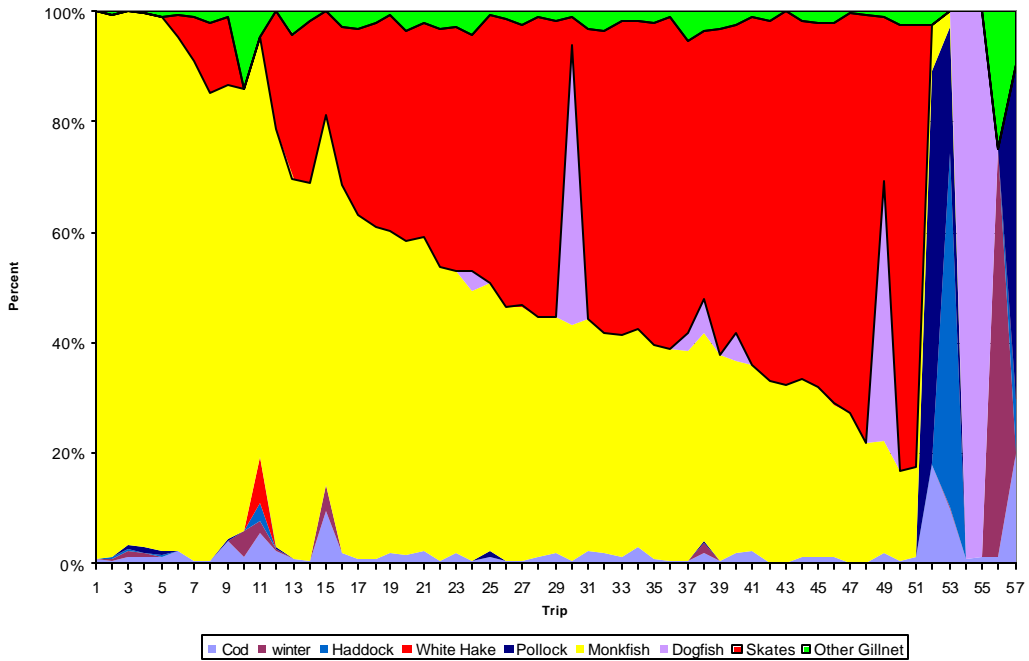


Figure 62 - GB gillnet landings composition, quarters 3 and 4 (FY 2001)

Figure 22. Landings Composition for SNEMA Gillnet (FY2001)

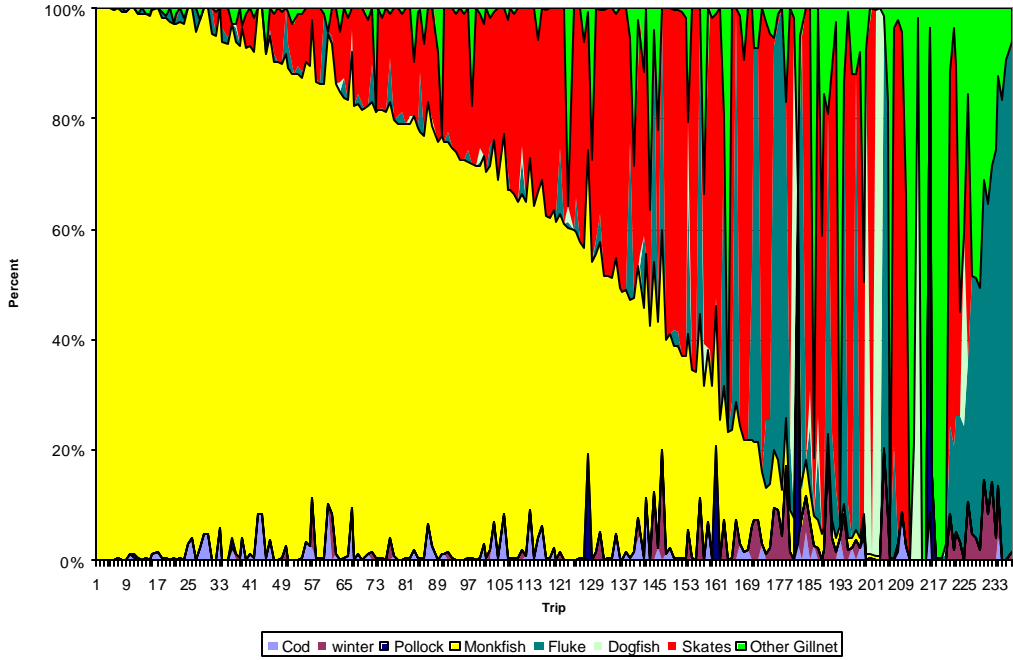


Figure 63 – SNE/MA gillnet landings composition (FY 2001)

Figure 23. Landings Composition for SNEMA Gillnet (FY2001 Quarter 3 & 4)

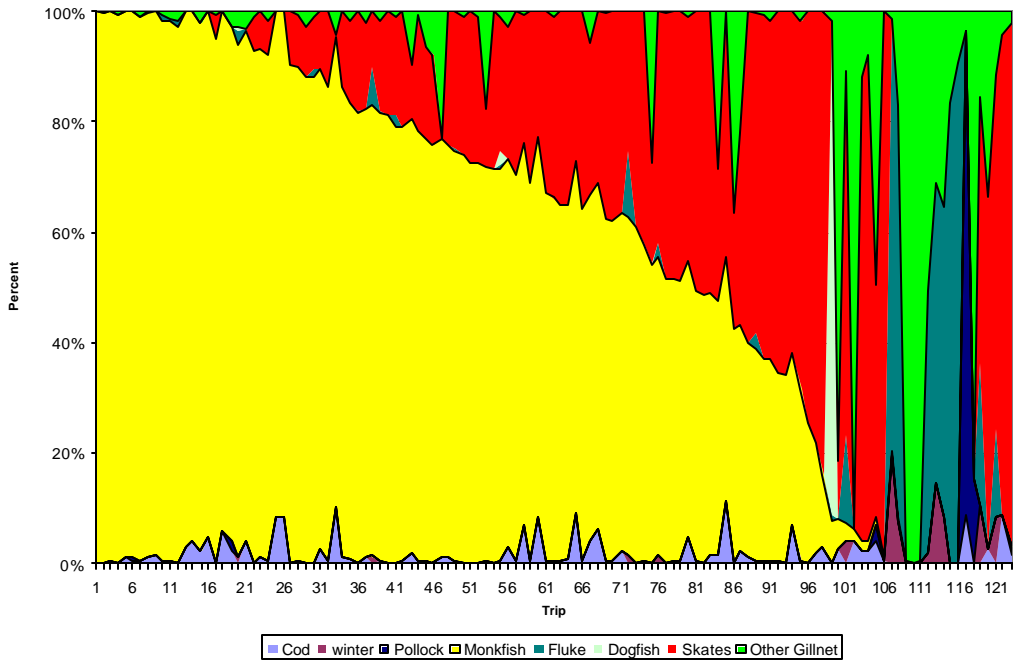


Figure 64 – SNE/MA trawl landings composition, quarters 3 and 4 (FY 2001)

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Appendix B  
Draft Proposed Rule



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket Nr]

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Framework Adjustment 40A

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement measures in Framework Adjustment 40A (FW 40A) to the NE Multispecies Fishery Management Plan (FMP). 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. These species - in some cases sub-divided into different stock areas - are harvested by commercial and recreational fishermen. 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 mortality targets and meet other requirements of the Magnuson-Stevens 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. As a result, 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 FW 40A is to adopt programs that will provide additional opportunities to target healthy stocks in order to achieve optimum yield. These programs will also mitigate the economic and social impacts caused by the effort reductions adopted by Amendment 13.

The programs proposed in this action create opportunities for vessels to use additional DAS to target healthy stocks. Amendment 13 categorized the DAS for every permit into one of three groups: Category A DAS that can be used to target any groundfish stock, Category B DAS that can only be used to target healthy stocks, and Category C DAS that cannot be used at all. Category B DAS were further defined as either Category B (regular) or Category B (reserve) DAS. The proposed action creates programs that allow vessels to use Category B DAS (both regular and reserve). These programs either detail the specific time, area, and other requirements to use them in a Special Access Program, or SAP, or create a pilot program that allows limited use of these DAS with very low trip limits for unhealthy stocks.

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 of cod, haddock, and yellowtail flounder on eastern Georges Bank. As part of this system, under certain conditions vessels are restricted to fishing in defined areas. There is a concern that this restriction is so onerous that vessels will not choose to fish in this area – where catches of healthy stocks of haddock, winter, and yellowtail flounder would predominate - and will instead fish in inshore areas on unhealthy stocks. This action proposes to change the restrictions that limit vessels to fishing only in this area so that they will use their effort to target the healthy stocks.

DATES: Comments must be received by [insert date 30 days after publication].

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on the Proposed Rule for Groundfish Framework 40A.” Comments may also be sent via facsimile (fax) to (978) 281-9135. Comments will not be accepted if sent via e-mail or Internet.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule should be submitted to the Regional Administrator at the address above and by e-mail to [David.Rotsker@omb-eop.gov](mailto:David.Rotsker@omb-eop.gov), or fax to Administrator at the address above and by email to [David.Rotsker@omb-eop.gov](mailto:David.Rotsker@omb-eop.gov) or fax to (202) 395-7285.

Copies of FW 40A, its Regulatory Impact Review (RIR), the Preliminary Regulatory Flexibility Analysis, and the Environmental Assessment are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, The Tannery – Mill 2, Newburyport, MA 01950. NMFS Prepared an Initial Regulatory Flexibility Act Analysis, which is contained in the Classification section of this proposed rule.

FOR FURTHER INFORMATION CONTACT: Thomas Warren, Fishery Policy Analyst, phone: (978) 281-9347, fax: (978) 281-9135; email: [Thomas.warren@noaa.gov](mailto:Thomas.warren@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Council developed Amendment 13 in order to bring the FMP into conformance with all Magnuson-Stevens Act requirements, including ending overfishing and rebuilding all overfished groundfish stocks. Amendment 13 was partially approved by the Secretary of Commerce on March 18, 2004. A final rule implementing the amendment was published April 27, 2004 (69 FR 22906) and become effective May 1, 2004. Amendment 13 adopted a suite of management measures to reduce fishing mortality on stocks that are either overfished, or where overfishing is occurring. 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. As a result, 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 FW 40A is to adopt programs that will provide additional opportunities to target healthy stocks in order to achieve optimum yield. These programs will also mitigate the economic and social impacts caused by the effort reductions adopted by Amendment 13.

One of the primary management measures used by Amendment 13 to control fishing mortality are days-at-sea (DAS), which limit the time that vessels with limited access permits can fish for regulated groundfish. Amendment 13 categorized the DAS allocated to each permit as Category A, B (regular), B (reserve) or C DAS. Category A DAS can be used to target any regulated groundfish stocks, while Category B DAS are to be used only to target healthy groundfish stocks. Category C DAS cannot be used until some time in the future. The regulations implementing Amendment 13 only created one opportunity to use Category B DAS: a special access program designed to target Georges Bank yellowtail flounder in Closed Area II. FW 40A creates additional opportunities to use Category B DAS.

#### Proposed Measures

FW 40A adopts measures that implement three programs that create opportunities to target healthy groundfish stocks: a Category B (regular) DAS Pilot Program, a Closed Area I Hook Gear Haddock Special Access Program (SAP), and a Closed Area II Haddock SAP. A description of the proposed management measures follows. FW 40A also relaxes restrictions on the area that can be fished by vessels fishing in the western U.S./Canada area.

##### 1. Combined Trips to the Western U.S./Canada Management Area

Regulations implementing Amendment 13 restrict vessels fishing in the western U.S./Canada area to only fishing in that area on a trip. FW 40A proposes to allow limited access multispecies vessels to fishing inside and outside the area on the same trip, but not in the eastern U.S./Canada area. Vessels must report catches of yellowtail flounder by statistical area when crossing into or out of the western U.S./Canada area, and are bound by the most restrictive landing limits for the area fished. They must comply with all other requirements for fishing in the western U.S./Canada area.

##### 2. Closed Area I Hook Gear Haddock SAP

This SAP creates an opportunity for vessels using longline or tub trawl gear to target haddock inside a specific area of Closed Area I. The season for this SAP is October 1 through December 31. Participation in the SAP will end if 1,000 mt of haddock are caught before the season ends. In addition, an incidental catch TAC is specified for GB cod and fishing in the SAP while on a Category B DAS will cease when this incidental catch TAC is projected to be caught.

Any vessel intending to participate in this SAP must notify NMFS by September 1; failure to make this notification will prevent a vessel from participating in this SAP. All vessels participating in this SAP must be equipped with an approved VMS. Vessels must provide NMFS notice of a planned trip in the SAP at least seventy-two hours in advance in order to facilitate observer coverage. In addition, vessels must notify NMFS via VMS when departing on a SAP trip

Specific requirements for the SAP differ for vessels that are members of the GB Cod Hook Sector and for those vessels that are not. Vessels not in the hook sector must report the catch of haddock and stocks of concern via VMS. For those vessels that are not members of the sector, they may use any type of DAS to participate in the SAP. If fishing on Category A DAS, vessels can fish inside the SAP area and outside the SAP area on the same trip. They are restricted to the gear limits for the other areas fished, and the cod landing limit is 500 lbs (226.8 kg) per DAS, for a maximum of 2,000 lbs. (907.2 kg) per trip, for limited access vessels. Vessels participating in the SAP using a Handgear A or handgear permit are restricted to the cod limits for those permits. Vessels must report the amount of haddock and stocks of concern caught when crossing the boundary into or out of the SAP area. Catches of cod on Category A DAS do not apply to the incidental catch cod TAC. Vessels fishing on a Category B DAS cannot fish outside the SAP area on the same trip and are subject to the same cod landing limit. Cod catches on all Category B DAS count against the incidental cod TAC. Vessels must report catches daily through VMS.

Vessels in the hook sector cannot fish outside the SAP area on the same trip. In addition, vessels in the hook sector cannot discard legal-sized cod and all cod caught count against the hook sector cod allocation. Daily catch reports for each vessel may be submitted by the sector manager rather than by individual vessels.

##### 3. Closed Area II Haddock SAP

This SAP created an opportunity for limited access DAS vessels to target haddock in and near Closed Area II while using a Category B DAS. The season for this SAP is May 1 through December 31. The pilot program will run for two years from the date of implementation. Participation in the SAP will end if the haddock or cod TAC for the eastern U.S./Canada management area is reached. In addition, an incidental catch TAC is specified for GB cod and participation in the SAP by vessels using a Category B DAS will cease when this incidental catch TAC is projected to be caught.

Vessels fishing in this SAP must have an approved VMS. Vessel owners or operators planning a trip in this SAP must notify NMFS seventy-two hours in advance in order to facilitate observer coverage, and must also notify NMFS via VMS when departing on a trip in this SAP. The cod landing limit is 1,000 lbs. (453.6 kg) per trip, regardless of trip length. Cod cannot be discarded while fishing on a Category B DAS. If a vessel exceeds the cod landing limit, the owner or operator must immediately notify NMFS via VMS and must change to a Category A DAS. At that point, the vessel must comply with all landing restrictions that apply to Category A DAS. Haddock landing limits are consistent with other limits in place. This measure also changes the cod landing limit for the Closed Area II Yellowtail Flounder SAP to 1,000 lbs. (453.6 kg) per trip so that the same limit applies if a vessel chooses to fish in both SAPs on the same trip.

#### 4. Category B (regular) DAS Pilot Program

This program creates an opportunity to use Category B (regular) DAS outside of a special access program. In addition, if successful this program will provide the Council information that will be used to design future Category B (regular) DAS programs. The pilot program will run for one year, from November 1, 2004 through October 31, 2005. The program will be limited to the use of 1,000 Category B (regular) DAS in each quarter (November through January, February through April, May through July, and August through October). These DAS will not be further allocated to individual vessels – they will be used on a first-come first served basis.

In addition to this limit on DAS, for each quarter a Total Allowable Catch (TAC) will be set for the primary stocks of concern that may be caught in this program (Georges Bank cod, Gulf of Maine cod, Cape Cod/Gulf of Maine yellowtail flounder, Southern New England/Mid-Atlantic yellowtail flounder, Southern New England/Mid-Atlantic winter flounder, witch flounder, plaice, and white hake). With the exception of white hake, if the TAC is caught for one of these species, participation in the Category B (regular) DAS program in that stock area will be prohibited until the next quarter. If the white hake TAC is caught, the possession of white hake will be prohibited until the next quarter.

In order to participate in this program, a vessel must be equipped with an approved Vessel Monitoring System (VMS). A vessel owner or operator must notify NMFS seventy-two hours in advance of a trip in order to facilitate observer coverage. This notice must include a preliminary notice of the broad area or areas (Gulf of Maine, Georges Bank, or Southern New England) that will be fished, but this notice does not restrict vessel activity and is only used to plan observer coverage. When departing on the trip, the vessel owner or operator must notify NMFS via VMS that it is participating in the Category B (regular) DAS pilot program. There are no specific area or gear requirements for participation, but vessels cannot fish in a SAP on the same trip, cannot fish in a rolling (seasonal) or year round closed area, and must comply with minimum gear requirements. While fishing on a Category B (regular) DAS in this program, DAS will be charged at the rate of DAS for each calendar day, or part of a calendar day, fished.

Vessels fishing in this program are limited to very low landing limits for stocks of concern, and cannot discard legal-sized regulated groundfish while on a Category B (regular) DAS. If a vessel exceeds the low landing limits, the vessel owner or operator must notify NMFS by VMS and must then change its DAS to a Category A DAS. Category A DAS will be charged against the vessel's allocation by the minute for the entire trip.

#### Classification

At this time, NMFS has not determined that the framework adjustment that this proposed rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared an Environmental Assessment for this action. This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

NMFS, pursuant to section 603 of the Regulatory Flexibility Act (RFA), prepared the initial regulatory flexibility analysis (IRFA). [fill in as appropriate]

*Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule*

*Reporting and Recordkeeping Requirements*

The proposed measures under FW 40A include the following provisions requiring either new or revised reporting and recordkeeping requirements: (1) daily electronic reporting of kept and discarded catch while participating in the Category B (regular) DAS pilot program, Closed Area I Hook Gear Haddock SAP, Closed Area II Haddock SAP; (2) Advance notice of planned participation in the Category B (regular) DAS pilot program, Closed Area I Hook Gear Haddock SAP, Closed Area II Haddock SAP in order to facilitate observer coverage; (3) electronic reporting of the start of a trip participating in the Category B (regular) DAS pilot program, Closed Area I Hook Gear Haddock SAP, Closed Area II Haddock SAP; (4) electronic notice of a change of DAS from a Category B DAS to a Category A DAS while participating in the Category B (regular) DAS pilot program or the Closed Area II Haddock SAP.

[Fill in estimated costs based on final PRA]

This rule contains collection of information requirements subject to review and approval by OMB under the Paperwork Reduction Act. These requirements have been submitted to OMB for approval. Public reporting burden for these collections of information are estimated to average as follows:

[Fill in based on PRA submission]

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS and to OMB (see ADDRESSES).

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Date

Signature

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows:

Part 648—Fisheries of the Northeastern United States

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 648.2, new definitions for “Days-at-sea (DAS) flip” and “Incidental catch Total Allowable Catch (TAC)” are added in alphabetical order, to read as follows:

§ 648.2 Definitions

\* \* \* \* \*

*Days-at-sea (DAS) flip*, with respect to the Northeast Multispecies Fishery, means to notify NMFS that a vessel that began a trip on a Category B DAS is changing the trip to a Category A DAS.

*Incidental catch Total Allowable Catch (TAC)*, with respect to the Northeast Multispecies Fishery, means the amount of catch (both kept and discarded) of a regulated groundfish stock of concern that can be taken by vessels fishing on Category B DAS.

\* \* \* \* \*

3. Amend § 648.82 as follows:

a. Revise paragraph (d)(2) to read:

\* \* \*

(i) *Regular B DAS--(A) Restrictions on use.* Beginning [insert implementation date of Final Rule], Regular B DAS can only be used either in an approved SAP or in the Category B (regular) DAS pilot program as specified in § 648.85.

\* \* \*

b. Add paragraph (e)(3) as follows:

\* \* \* \* \*

(3) Category B (regular) DAS used in the Category B (regular) DAS Pilot Program described in § 648.85 will accrue at the rate of one full DAS for each calendar day, or part of a calendar day, fished.

\* \* \* \* \*

4. Amend § 648.85 as follows:

a. Amend paragraph (a) as follows:

\* \* \* \* \*

(3) \* \* \*

(i) \* \* \*

(ii) *Declaration.* All NE multispecies DAS vessels that intend to fish in the U.S./Canada Management Area under a groundfish DAS must, prior to leaving the dock, declare the specific U.S./Canada Management Area described in paragraphs (a)(1)(i) or (ii) of this section, or the specific SAP, described in paragraph (b) of this section, within the U.S./Canada Management Area, through the VMS, in accordance with instructions to be provided by the Regional Administrator. A vessel fishing under a NE multispecies DAS in the eastern U.S./Canada Management Area may not fish, during that same trip, outside of the declared area, and may not enter or exit the declared area more than once per trip. A vessel fishing under a NE multispecies DAS in the western U.S./Canada Management Area may choose to restrict its trip to that area, or to fish in the western U.S./Canada Management Area and outside the U.S./Canada Management area on the same trip, subject to the provisions in paragraphs (iv)(C) and (v)(B) of this section. A vessel cannot fish in both the eastern and western U.S./Canada Management Area on the same trip. Vessels other



than NE multispecies DAS vessels are not required to declare into the U.S./Canada Management Areas. For the purposes of selecting vessels for observer deployment, a vessel fishing in either of the U.S./Canada Areas specified in paragraph (a)(1) of this section, must provide notice to NMFS of the vessel name, contact name for coordination of observer deployment, telephone number for contact, date, time and port of departure, at least seventy-two hours prior to the beginning of any trip which it declares into the U.S./Canada Area as required under this paragraph (a)(3)(ii).

(iii) \* \* \*

(iv) \* \* \*

(A) \* \* \*

(B) \* \* \*

(C) Yellowtail flounder landing limit—

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(4) *Yellowtail flounder landing limit for vessels fishing both inside and outside the Western U.S./Canada Management Area on the same trip.* If a vessel notifies NOAA Fisheries that it will fish inside the western U.S./Canada Management Area and outside the U.S./Canada Management Area on the same trip, it is bound by the most restrictive yellowtail flounder landing limit for the area fished.

(D) \* \* \*

(E) \* \* \*

(v) *Reporting.* (A) The owner or operator of a NE multispecies DAS vessel must submit reports through the VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished when declared into either of the U.S./Canada Management Areas. The reports must be submitted in 24-hr intervals for each day beginning at 0000 hours and ending at 2400 hours. The reports must be submitted by 0900 hours of the following day. For vessels that have declared into the Eastern U.S./Canada Area in accordance with paragraph (a)(3)(ii) of this section, the reports must include at least the following information: Total lb/kg of cod, haddock and yellowtail flounder kept and total lb of cod, haddock, and yellowtail flounder discarded. For vessels that have declared into the Western U.S./Canada Area in accordance with paragraph (a)(3)(ii) of this section, the reports must include at least the following information: Total lb/kg of yellowtail flounder kept and total lb/kg of yellowtail flounder discarded.

(B) In addition to the reporting requirements in (v)(A), a vessel that has notified NMFS that it will fish inside the Western U.S./Canada Management Area and outside the Western U.S./Canada Management Area on the same trip must submit reports through the VMS, in accordance with instructions to be provided by the Regional Administrator, when crossing the boundary into or out of the Western U.S./Canada Management Area. The reports must be submitted within one hour of crossing the boundary and must include at least the following information: total lb/kg of yellowtail flounder kept by statistical area and total lb/kg of yellowtail flounder discarded by statistical area since the last catch report.

(vi) \* \* \*

b. Amend paragraph (b) as follows:

\* \* \* \* \*

(3) *Closed Area II Yellowtail Flounder SAP*

\*\*\*\*\*

(viii) *Trip limits.* Unless otherwise authorized by the Regional Administrator as specified in paragraph (a)(3)(iv)(D) of this section, a vessel fishing in the Closed Area II Yellowtail Flounder SAP may fish for, possess and land up to 30,000 lb (13,608.2 kg) of yellowtail flounder per trip, and may not possess more than 1,000 pounds of cod per trip, regardless of trip length. This cod limit applies for the entire trip if any part of the trip is fished in the Closed Area II Yellowtail Flounder SAP.

\*\*\*\*\*

(4) *Closed Area I Hook Gear Haddock SAP.* Vessels issued a valid limited access NE multispecies DAS permit, a Handgear Category A permit, or an open-access handgear permit are eligible to participate in the Closed Area I Hook Gear Haddock SAP, and may fish in the Closed Area I Hook Gear Haddock Access area, as described in paragraph (b)(4)(ii) of this section, for the period specified in paragraph (b)(5)(iii) of this section, when fishing under a NE multispecies DAS, consistent with requirements of Handgear A or handgear permit requirements, or consistent with the operating requirements of an authorized sector, provided such vessels comply with the requirements of this section. Copies of a chart depicting this area are available from the Regional Administrator upon request.

(ii) *Closed Area I Hook Gear Haddock Access Area.* The Closed Area I Hook Gear Haddock Access Area the area defined by straight lines connecting the following points, as defined by latitude and longitude, in the order stated.

CLOSED AREA I HOOK GEAR HADDOCK ACCESS AREA

Point	N. Lat.	W. Long.
Hook1	41° 25'58" N.	69° 20'17" W.
Hook2	41° 29'22" N.	69° 08'06" W.
Hook3	41° 8'52" N.	68° 50'18" W.
Hook4	41° 6'44" N.	69° 3'25" W.

(iii) *Season.* Eligible vessels may fish in the Closed Area I Hook Gear Haddock SAP October 1 through December 31.

(iv) *VMS requirement.* All NE multispecies vessels in the CAI Hook Gear Haddock Access Area Areas described in paragraph (b)(5)(ii) of this section must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10.

(v) *Declaration.* Vessel owners or operators must notify NMFS, in accordance with instructions provided by the Regional Administrator, of intent to participate in the CAI Hook Gear SAP by September 1. Failure to provide this notice precludes participation. For the purposes of selecting vessels for observer deployment, a vessel must provide notice to NMFS of the vessel name, contact name for coordination of observer deployment, telephone number for contact, date, time and port of departure, and special access program to be fished, at least seventy-two hours prior to the beginning of any trip which it declares into the Special Access Program as required under this paragraph (b)(4)(v). Prior to and within one hour of departure from port, a vessel intending to participate in the Closed Area I Hook Gear Haddock SAP must declare into this area through the VMS and advise what category of DAS will be used, in accordance with instructions provided by the Regional Administrator. In addition to fishing in the Closed Area I Hook Gear Haddock SAP, a limited access vessel that is not a member of the GB Cod Hook Sector described in §§648.87(d)(1) may also declare its intent to fish in the area outside of the CAI Hook Gear Haddock Access Area, as defined in paragraph (b)(4)(ii) of this section, on the same trip provided the vessel fishes in this area under the most restrictive provisions of either the CAI Hook Gear Haddock SAP or other area fished, and the vessel uses a Category A DAS.

(vi) *Haddock Total Allowable Catch.* Participation in this access program will cease for the rest of the fishing year if/when the Regional Administrator projects that 2,204,622.6 lb (1,000 mt) of haddock have been caught (including both kept and discarded haddock).

(vii) *GB Cod Incidental Catch TAC.* (A) Participation in this access program by limited access vessels that are using Category B DAS and are not members of the GB Hook Sector, and by vessels with a Handgear A or handgear permit, will cease when the Regional Administrator projects that these vessels will catch (including both kept and discarded haddock) the incidental catch TAC assigned to this SAP for the fishing year. These TACs will be specified during the periodic adjustment process described in §648.90. The incidental catch TAC for this SAP will be sixteen percent of the GB cod incidental catch TAC. The initial incidental catch TACS are:

Fishing Year	Cod TAC
2004	27,778.2 lb (12.6 metric tons)
2005	34,171.7 lb (15.5 mt)
2006	44,753.8 (20.3 mt)

(B) All cod caught (kept or discarded) by limited access vessels using a Category B DAS that are not members of the GB Cod Hook Sector, and by Handgear A or handgear permit holders, will be applied to the GB cod incidental catch TAC.

(viii) *Landing limits.* (A) Unless a participant in an authorized sector, a limited access DAS vessel fishing any part of a trip in the Closed Area I Hook Gear Haddock SAP may fish for, possess and land up to 500 lb (226.8.2 kg) of cod per day-at-sea, to a maximum of 2,000 lb (907.2 kg) per trip. The maximum trip length in the SAP is four DAS for all vessels that are not in the GB Hook Sector.

(B) A vessel with a Handgear A permit or a handgear permit fishing any part of a trip in the Closed Area I Hook Gear Haddock SAP may fish for, possess and land up to the cod limit specified for that permit category in 648.82(b)(6) or 648.88(a)(1), respectively.

(ix) *Area fished.* Eligible vessels that have declared a trip into the Closed Area I Hook Gear Haddock SAP and other areas as specified under paragraph (b)(4)(v) of this section may not enter or exit the area more than once per trip. A vessel that is using a Category B DAS to fish in the Closed Area I Hook Gear Access area may not fish or set gear outside of the area on the same trip.

(x) *Gear requirements.* Vessels must fish with longline or tub trawl gear while participating in the Closed Area I Hook Gear Haddock SAP. If a limited access DAS vessel is only fishing in the Closed Area I Hook Gear Access Area, there is no limit on the number of hooks but vessels must comply hook size requirements specified in §648.80(a)(4)(v). Vessels fishing in the Closed Area I Hook Gear Access area and outside the area are limited to the lowest number of hooks for the area fished. Vessels fishing with Handgear A or open-access handgear permit are limited to the number of hooks for tub-trawls specified in §648.88(a)(2).

(xi) *Reporting Requirements.* The owner or operator of a NE multispecies vessel that is not a member of the GB Cod Hook Sector must submit reports through the VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished when declared into the Closed Area I Hook Gear Haddock SAP. The reports must be submitted in 24-hr intervals for each day beginning at 0000 hours and ending at 2400 hours. The reports must be submitted by 0900 hours of the following day. For vessels that have declared into the Closed Area I Hook Gear Haddock SAP in accordance with paragraph (b)(4)(iii) of this section, the reports must include at least the following information: Total lb/kg, kept and discarded, of haddock and regulated groundfish stocks of concern as identified by the Regional Administrator. If a vessel that is not a participant in the GB Cod Hook Sector is fishing both in the Closed Area I Hook Gear Access area and outside the area on the same trip, a catch report must also be submitted when entering or exiting the area in accordance with instructions provided by the Regional Administrator. These reports must be submitted within one hour of entering or exiting the Closed Area I Hook Gear Access area.

(xii) *Additional Requirements for Vessels in the GB Hook Sector.* For vessels that participate in the GB Cod Hook Sector described in §648.87(d)(1), the following provisions apply:

(A) All cod catches (including cod kept and discarded) will count towards the sector GB cod allocation.

(B) Discarding of legal-sized cod is prohibited.

(C) Instead of the reporting requirements specified in (b)(5)(xi), daily catch reports, by vessel, can be provided by a responsible official designated by the sector.

(D) A vessel that has declared a trip into the Closed Area I Hook Gear Access area may not fish or have gear set outside of the area during the SAP trip.

(5) *Closed Area II Haddock SAP Pilot Program.* (i) Vessels issued a valid limited access NE multispecies DAS permit are eligible to participate in the Closed Area II Haddock SAP, and may fish in the Closed Area II Haddock Access area, as described in paragraph (b)(5)(ii) of this section, for the period specified in paragraph (b)(5)(iii) of this section, when fishing under a NE multispecies DAS or consistent with the operating requirements of an authorized sector, provided such vessels comply with the requirements of this section. Copies of a chart depicting this area are available from the Regional Administrator upon request.

(ii) *Closed Area II Haddock Access Area.* The Closed Area II Haddock Access Area is the area defined by straight lines connecting the following points in the order stated.

#### CLOSED AREA II HADDOCK ACCESS AREA

Point	N. Lat.	W. Long.
CII3	42° 22' N	67° 20' W. (1)

CIH1	42° 20' N.	67° 20' W.
CIH2	42° 20' N.	67° 40' W.
CIH3	41° 10' N.	67° 40' W.
CIH4	41° 10' N.	67° 20' W.
CIH5	42° 10' N.	67° 20' W.
CIH6	42° 10' N.	67° 10' W. (1)

(1) U.S./Canada maritime boundary

(iii) *Season.* Eligible vessels may fish in the Closed Area II Haddock SAP May 1 through December 31.

(iv) *VMS requirement.* All NE multispecies DAS vessels in the CAII Haddock Access Area Areas described in paragraph (b)(5)(ii) of this section must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10.

(v) *Declaration.* For the purposes of selecting vessels for observer deployment, a vessel must provide notice to NMFS of the vessel name, contact name for coordination of observer deployment, telephone number for contact, date, time and port of departure, and special access program to be fished, at least seventy-two hours prior to the beginning of any trip which it declares into the Special Access Program as required under this paragraph (b)(5)(v). Prior to and within one hour of departure from port, a vessel intending to participate in the Closed Area II Haddock SAP must declare into this area through the VMS and advise what category of DAS will be used, in accordance with instructions provided by the Regional Administrator. In addition to fishing in the Closed Area II Haddock SAP, a vessel, on the same trip, may also declare its intent to fish in the eastern U.S./Canada management area outside of the CAII Haddock Access Area, as defined in paragraph (a)(1)(ii) of this section, and/or in the CAII Yellowtail Flounder SAP area defined in paragraph 648.85(b)(3), as long as those areas remain open to fishing.

(vi) *Haddock and Cod Total Allowable Catch.* Participation in this access program will cease for the remainder of the fishing year if/when the Regional Administrator projects that the haddock or cod Total Allowable Catch defined in §648.85(a)(2) has been caught (including both kept and discarded fish).

(vii) *GB Cod Incidental Catch TAC.* (A) Participation in this access program by vessels that are using Category B DAS will cease when the Regional Administrator projects that vessels participating in the SAP using Category B DAS will catch (including both kept and discarded fish) the incidental catch TAC assigned to this SAP for the fishing year. These TACs will be specified during the periodic adjustment process described in §648.90. The incidental catch TAC for this SAP will be thirty-four percent of the GB cod incidental catch TAC. The initial incidental catch TACS are:

Fishing Year	Cod TAC
2004	59,524.8 lb (27 metric tons)
2005	72,752.5 lb (33 mt)
2006	94,798.8 lb (43 mt)

(B) All cod caught (kept or discarded) by limited access vessels participating in this SAP while using a Category B DAS will be applied to the GB cod incidental catch TAC, regardless of whether it is caught in the CAII Haddock SAP area or outside of the area.

(viii) *Landing limits.* (A) A vessel fishing any portion of a trip in the Closed Area II Haddock SAP may fish for, possess and land up to 1,000 lb (453.6kg) of cod per trip, regardless of trip length.

(B) A vessel fishing any portion of a trip in the Closed Area II Haddock SAP cannot discard legal sized cod while fishing on a Category B DAS.

(C) If a vessel exceeds the landing limit specified in §(b)(4)(viii)(1) while using a Category B DAS, the vessel owner or operator must notify NOAA Fisheries via VMS according to instructions issued by the Regional Administrator that the vessel has exceeded the cod landing limit and is changing its DAS to a Category A DAS. The entire trip will be charged against the vessel's Category A DAS allocation. Once fishing on a Category A DAS, the vessel owner and operator must comply with all landing limits that apply to the area fished.

(ix) *Area fished.* Vessels participating in the Closed Area II Haddock SAP pilot program may fish in any part of the eastern U.S./Canada area that is open to fishing subject to the most restrictive requirements for the area being fished.

(x) *Gear requirements.* (A) Vessels must use gear that has been demonstrated to minimize the catch of cod while participating in the Closed Area II Haddock SAP. The following gear is authorized:

(1) Haddock separator trawl described in §(a)(3)(iii)(A).

(2) Flounder net as described in §(a)(3)(iii)(B).

(3) Reserved.

(B) The Regional Administrator is authorized to approve the use of other gear if it is demonstrated that the gear performs similarly to a haddock separator trawl. The Regional Administrator will provide notice of possible approval through a proposed rule and after reviewing public comments will authorize additional gear through a final rule.

(xi) *Reporting Requirements.* The owner or operator of a NE multispecies DAS vessel must submit reports through the VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished when declared into the Closed Area II Haddock SAP. The reports must be submitted in 24-hr intervals for each day beginning at 0000 hours and ending at 2400 hours. The reports must be submitted by 0900 hours of the following day. For vessels that have declared into the Closed Area II Haddock SAP Pilot Program in accordance with paragraph (b)(5)(iii) of this section, the reports must include at least the following information: Total lb/kg of cod, haddock and yellowtail flounder kept and total lb of cod, haddock, and yellowtail flounder discarded.

(xii) *Duration.* The Closed Area II Haddock SAP Pilot Program will expire at the end of the month two years after [insert date of publication of Final Rule].

(6) *Category B (regular) DAS Pilot Program.* Vessels issued a valid limited access NE multispecies DAS permit are eligible to participate in the Category B (regular) DAS Pilot Program for the period specified in paragraph (b)(6)(iii) of this section provided such vessels comply with the requirements of this section.

(ii) *Category B (regular) DAS Pilot Program Access Area.* (A) The Category B (regular) DAS pilot program area includes all areas open to fishing on a multispecies DAS, unless restricted by the provisions of paragraph (vii) below.

(B) A vessel participating in the Category B (regular) DAS Pilot Program cannot fish in a Special Access Program during the same trip.

(iii) *Season.* Eligible vessels may fish in the Category B (regular) DAS pilot program November 1, 2004 through October 31, 2005, subject to the requirements of this section.

(iv) *VMS requirement.* All NE multispecies DAS vessels in the Category B (regular) DAS Pilot Program must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10.

(v) *Declaration.* For the purposes of selecting vessels for observer deployment, a vessel must provide notice to NMFS of the vessel name, contact name for coordination of observer deployment, telephone number for contact, date, time and port of departure, and planned fishing area or areas (Gulf of Maine, Georges Bank, or Southern New England/Mid-Atlantic) at least seventy-two hours prior to the beginning of any trip which it declares into the Category B (regular) DAS Pilot Program as required under this paragraph (b)(6)(v). (The declaration of planned fishing area does not restrict the vessel's fishing locations and is only used to plan observer coverage). Prior to and within one hour of departure from port, a vessel intending to participate in the Category B (regular) DAS Pilot Program must declare the start of a Category B (regular) DAS trip.

(vi) *Effort Controls.* (A) Participation in the Category B (regular) DAS pilot program is limited to 1,000 Category B (regular) DAS in each quarter. Only the DAS used on trips that end on a Category B (regular) DAS will count against this total.

(B) For the Category B (regular) DAS Pilot Program, a vessel will be charged one Category B (regular) DAS for each calendar day, or part of a calendar day, fished.

(vii) *Incidental Catch TACs.* (A) Participation in this access program by vessels will cease in specified areas when the Regional Administrator projects that vessels participating in the program will catch (including both kept and discarded fish) the incidental catch TACs assigned to this program for the appropriate quarter. These TACs will be specified during the periodic adjustment process described in §648.90. The incidental catch TACs, and the statistical areas that will be closed when a stock specific TAC is projected to be caught, are:

	FY 2004 3 <sup>rd</sup> Quarter (November – January)	FY 2004 4 <sup>th</sup> Quarter (February – April)	FY 2005 1 <sup>st</sup> Quarter (May – July)	FY 2005 2 <sup>nd</sup> Quarter (August- October)	Areas to be closed
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GOM cod	48.5	48.5	63.5	63.5	510-515
GB cod	19.75	19.75	24.25	24.25	520s, 530s, 540s, 600s
CC/GOM yellowtail	9	9	12.5	12.5	510-515, 521
Plaice	92.5	92.5	90	90	500-526,53- 539,541- 543,551- 562,600's
White Hake	38.5	38.5	38	38	See paragraph (b)(7)(vii)(2)
SNE/MA Yellowtail	17.5	17.5	49.5	49.5	526, 537- 539, 611-639
SNE/MA Winter Flounder	71.5	71.5	89	89	521,526,537 -539,600's
Witch Flounder	129.5	129.5	175	175	510-526, 551-562

(B) When the white hake incidental catch TAC is caught, vessels participating in the Category B (regular) DAS Pilot Program cannot retain white hake.

(viii) *Landing limits.* (A) A vessel fishing in the Category B (regular) DAS Pilot Program must comply with the following landing limits:

Cod, plaice, white hake, witch flounder, ocean pout, windowpane flounder: 100 lbs.(45.4 kg) per DAS to a maximum of 1,000 lbs.(454 kg) per trip.

Atlantic halibut: A vessel issued a NE multispecies permit under §648.4(a)(1) and participating in the Category B (regular) DAS Pilot Program may land or possess on board no more than one Atlantic halibut per trip, provided the vessel complies with other provisions of this part.

(B) A vessel fishing in the Category B (regular) DAS Pilot Program that will fish outside of the U.S./Canada Area on any part of the trip must also comply with the following landing limits:

Yellowtail flounder: 25 lbs.(11.3 kg) per DAS to a maximum of 250 lbs.(113 kg) per trip

(C) A vessel fishing in the Category B (regular) DAS Pilot Program that will fish in the Southern New England RMA on any part of a trip must also comply with the following landing limits

Winter flounder: 100 lbs.(45.4 kg) per DAS to a maximum of 1,000 lbs.(454 kg) per trip

(D) A vessel fishing in the Category B (regular) DAS Pilot Program cannot discard legal-sized regulated groundfish while fishing on a Category B (regular) DAS.

(E) If a vessel exceeds any of the landing limits specified in §(b)(8)(viii)(1) or (2) while using a Category B (regular) DAS, the vessel owner or operator must notify NOAA Fisheries via VMS according to instructions issued by the Regional Administrator that the vessel has exceeded a Category B (regular) DAS landing limit and is changing its DAS to a Category A DAS. This notification must be provided before the vessel crosses the VMS demarcation line specified in § 648.10(a) enroute port. The entire trip will be charged against the vessel's Category A DAS allocation, counted as specified in §648.83(e). Once fishing on a Category A DAS, the vessel owner and operator must comply with all landing limits that apply to the area fished.

(F) For the purposes of this Pilot Program, if a vessel has been issued a letter of authorization issued under the provisions of §§ 648.86(b)(4), 648.86(g)(1), or 648.86(g)(2), the areas that can be fished under the terms of that letter will be used to determine the Category B (regular) DAS landing limits that apply for the entire trip.

(ix) *Area fished.* Vessels participating in the Category B (regular) DAS Pilot Program may fish in any area that is open to fishing for groundfish, but must observe all year-round and rolling (seasonal) closed areas.

(x) *Gear requirements.* Vessels must comply with the gear requirements specified in §648.80.

(xi) *Reporting Requirements.* The owner or operator of a NE multispecies DAS vessel must submit reports through the VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished that begins in the Category B (regular) DAS Pilot Program. The reports must be submitted

in 24-hr intervals for each day beginning at 0000 hours and ending at 2400 hours. The reports must be submitted by 0900 hours of the following day. The reports must include at least the following information: total lb/kg kept and discarded of each stock of concern, as identified by the Regional Administrator, by statistical area.

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Appendix C

Draft Paperwork Reduction Act Supporting Statements



**SUPPORTING STATEMENT  
NORTHEAST MULTISPECIES AMENDMENT 13 DATA COLLECTION**

**INTRODUCTION**

This submission requests Office of Management and Budget (OMB) clearance of data information collection revisions for the vessel permit requirements proposed under Framework Adjustment 40A to the Northeast (NE) Multispecies Fishery Management Plan (FMP). This information collection submission builds upon two previously approved submissions under the “Northeast Region Permit Family of Forms” (OMB Control No. 0648-0202 and 0648-0489). If approved, NOAA Fisheries intends to integrate this submission for Framework Adjustment 40A provisions into OMB form 0648-0202 when circumstances allow.

The New England Fishery Management Council (Council) is proposing management measures under Framework Adjustment 40A that create additional opportunities for commercial fishing vessels to harvest healthy groundfish stocks. The proposed measures under Amendment 13 include the following provisions requiring either new or revised information collection requirements: (1) A Category B (regular) days-at-sea (DAS) pilot program; (2) Special Access Programs, and (3) United States/Canada Resource Sharing Understanding. This data collection submission requests approval of new and revised information collection requirements to implement the above provisions for Framework Adjustment 40A to the NE Multispecies FMP.

**A. JUSTIFICATION**

**1. Explain the circumstances that make the collection of information necessary.**

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Secretary of Commerce (Secretary) has responsibility for the conservation and management of marine fishery resources off the coast of the United States. The majority of this responsibility has been delegated to the Regional Fishery Management Councils and the National Oceanic and Atmospheric Administration’s (NOAA’s) NOAA Fisheries. The New England Fishery Management Council (NEFMC; Council) develops management plans for fishery resources in New England. The Northeast Multispecies Fishery Management Plan manages twelve regulated groundfish species.

In 1999, the Council began development of an amendment to the management plan that would end overfishing and adopt required rebuilding plans for overfished stocks. In the case of Conservation Law Foundation, et al. V. Evans (Case No. 00CV011234), the U.S. District Court for the District of Columbia (Court) required the Council, along with the NOAA Fisheries, to implement management measures that would prevent overfishing and help rebuild groundfish stocks managed under the NE Multispecies FMP by a specific date. Interim measures were put into place on August 1, 2002, until Amendment 13 to the FMP could be developed. Ultimately, the Court required Amendment 13 to be implemented by May 1, 2004. On November 6, 2003, the Council approved measures outlined in Amendment 13, including those provisions specified above, to meet the court-ordered deadline. Amendment 13 was implemented on May 1, 2004. The implementation of Amendment 13 brought the FMP into full compliance with the provisions of the Sustainable Fisheries Act and other applicable law, and complied with the Court-ordered implementation deadline of May 1, 2004. Amendment 13 included programs to facilitate targeting of healthy groundfish stocks, but only two of these programs were approved by NOAA Fisheries. The Council has developed Framework 40A to create additional opportunities to target healthy stocks so that the Magnuson-Stevens Act requirement to attain optimum yield from the fishery can be met.

### **Category B (regular) DAS Pilot Program**

One of the ways the Northeast Multispecies Fishery Management Plan controls fishing mortality is by limiting the number of days that vessels can fish. Amendment 13 assigned each limited access permit holder a number of days-at-sea (DAS) that can be used. These DAS are categorized these as either Category A DAS or as Category B DAS. Category A DAS could be used beginning May 1, 2004 to target any regulated groundfish stock. The management measures in Amendment 13 (including the allocation of Category A DAS) are designed so that the mortality objectives will be met for all stocks. The number of allocated Category A DAS was chosen so that the appropriate amount of effort would be available. Any Category B DAS that are used increase the amount of effort. In order to prevent these additional DAS from threatening the mortality objectives of Amendment 13, Category B DAS can only be used to target healthy groundfish stocks. Only one program to use Category B DAS that was included in Amendment 13 was approved by NOAA Fisheries – a special access program (SAP) designed to harvest yellowtail flounder in a closed area on Georges Bank.

Amendment 13 further defined Category B DAS as either Category B (regular) or Category B (reserve) DAS and placed limits on how each can be used. Framework 40A includes a pilot program that would allow Category B (regular) DAS to be used outside of any SAPs. Vessels participating in this program must meet the following requirements:

- They must purchase, install and use an approved Vessel Monitoring System.
- Vessel operators must notify NMFS 72 hours in advance of a Category B DAS trip so that NOAA Fisheries can plan observer coverage.
- Vessel operators must notify NOAA Fisheries that they are using a Category B (regular) DAS at the start of the trip. This notification will be made through the VMS.
- Vessel operators must report the catch of stocks of concern daily through the VMS. This reporting requirement will be addressed in a separate PRA submission for the “Northeast Region Logbook Family of Forms” (OMB Control No. 0648-0212).
- While using a Category B (regular) DAS, vessel operators are limited to very low landing limits for certain groundfish stocks that are in poor condition. If these landing limits are exceeded, vessel operators must change the DAS being used to a Category A DAS. This notification (called “flipping” a DAS) must be made through the VMS and must occur before the vessel returns to port.

Vessels issued a limited access NE multispecies permit that are fishing under a NE multispecies Category B (regular) DAS would be required to use a VMS. For those vessels that do not currently possess a VMS, vessel owners would be required to purchase and install a certified VMS aboard their vessel. Vessels would be required to provide proof to the Regional Administrator (RA) that a certified VMS has been installed, including the installation receipt from a NOAA Fisheries-certified VMS vendor. Limited access multispecies vessels would be required to declare their intention to participate in the Category B (regular) DAS pilot program through the VMS prior to leaving port. Once installed, the VMS units of limited access NE multispecies DAS vessels would be polled once per hour while operating on a Category B (regular) DAS. Collecting this information would be necessary to monitor the activities of vessels participating this program, assess the amount of fish harvested under the agreement, and to enforce compliance with the provisions outlined in Framework 40A.

Participants in the Category B (regular) DAS pilot program would be required to notify NOAA Fisheries of their intent to fish on a Category B (regular) DAS to assist in the deployment of observers. Notifications for the purpose of observer deployment must be submitted at least three days prior to each

fishing trip into this area to the contracting company tasked with providing observer coverage. These notifications would be used by NOAA Fisheries to ensure that trips are included in the pool of vessels that would receive observer coverage. These vessels may then be requested to carry on board a NOAA Fisheries-approved observer or sea sampler. Such requests are made at the discretion of the RA for the purpose of monitoring fishing activities, collection of data and compliance as stated under §648.11. The notification must include vessel name, contact name for coordination of observer deployment, telephone number for contact, date, time and port of departure, and general area to be fished (Gulf of Maine, Georges Bank, or Southern New England).

Participants in the Category B (regular) DAS program are limited to very low catch limits for regulated groundfish stocks of concern (stocks that are in poor condition and for which fishing mortality must be carefully controlled as specified in Amendment 13). Vessels are only allowed to use Category B (regular) DAS if they remain below these limits. If a vessel exceeds these low limits for any stock, it must change (“flip”) the DAS it is using from a Category B (regular) DAS to a Category A DAS. This “flip” is accomplished by sending an electronic message to NOAA Fisheries using the installed VMS. The “flip” must take place before the vessel crosses the “VMS Demarcation Line” – a regulatory line that defines when a vessel is entering port and has stopped a fishing trip. This requirement to “flip” a DAS ensures that the additional effort from Category B (regular) DAS will be used to target healthy stocks and will not threaten the mortality objectives of Amendment 13. The requirement for a vessel to report this flip through the VMS facilitates the enforcement of this provision. Because the notice must be given before the vessel lands its fish, it provides an opportunity for Coast Guard and NOAA enforcement agents to meet vessels at the pier and determine if they complied with the low landing limits required for the use of Category B (regular) DAS use.

#### **Framework 40A Special Access Programs (SAPs)**

SAPs are narrowly defined fisheries that allow for increased access to specific stocks that might otherwise be restricted. Access to these stocks is permitted through exemptions to regulations that, in the absence of such exemptions, would prevent the full utilization of the allowable catch for those specific stocks. In doing so, the social and economic impacts associated with management initiatives are lessened. These access programs allow for increased yield of target stocks without compromising the efforts to rebuild overfished stocks, end overfishing, minimize bycatch, or minimize impact on essential fish habitat (EFH).

Framework 40A would establish two new SAPs that were originally submitted in Amendment 13 but disapproved by NOAA Fisheries. Because such SAPs allow for exemptions from the current regulations of a FMP, special permitting or Letters of Authorization (LOAs) are often required to ensure compliance and consistency with the purpose of the exemption. Special permits and LOAs provide a list of participants, their period of participation, and assist the agency in monitoring compliance with regulations governing these SAPs or exemption programs. However, neither of the SAPs mentioned below would be required to obtain a LOA. Instead, vessels required to use VMS in order to participate in the two SAPs would declare their intention to fish in a specific area of a particular SAP via VMS. This declaration provides the necessary verification that these vessels are participating in a SAP under Framework 40A. This information serves to document where a vessel intends to fish and what species the vessel would target prior to each particular trip. This information would be used to determine compliance with SAP provisions. Without a VMS on board, monitoring vessel position, vessel participation in a SAP, DAS usage, and species’ TACs as defined in Framework 40A would not be possible.

Vessels operating under a NE multispecies DAS and participating in the CA II Haddock SAP or the CA I Hookgear Haddock SAP described below would be required to have on board an operational VMS unit. The requirement to use VMS is intended to ensure compliance with the provisions of the SAPs as well as the U.S./Canada Area agreement. These two SAPs require participating vessels to declare their intent to fish within these SAPs, specifically the area in which they intend to fish, as well as the category of DAS to be used within the SAPs via VMS prior to leaving the dock.

Under Framework 40A, category B DAS may be used within the CA I or CA II SAPs. Accordingly, vessels may choose whether to use a category A or B DAS prior to each trip into a particular SAP. Therefore, prior to leaving the dock, limited access NE multispecies vessels fishing under a NE multispecies DAS within the CA II Haddock SAP or the CA I Hookgear Haddock SAP would be required to declare whether they are using a category A or B DAS for each trip. Since Category B DAS may be used in approved SAPs, the declaration of DAS category is required to ensure that DAS are accurately monitored and enforced and that compliance with the provisions of approved SAPs and their possession limit regulations is maintained.

Vessels participating in either of these SAPs are required to notify NOAA Fisheries of their intent to fish in these programs to assist in the deployment of observers. Under current regulations, notifications for the purpose of observer deployment must be submitted at least five days prior to each fishing trip into this area via a telephone call to the contracting company tasked with providing observer coverage. These notifications are used by NOAA Fisheries to ensure that trips into the Agreement Management Areas are included in the pool of vessels that would receive observer coverage. These vessels may then be requested to carry on board a NOAA Fisheries-approved observer or sea sampler. Such requests are made at the discretion of the RA for the purpose of monitoring fishing activities, collection of data and compliance as stated under §648.11.

These collection requirements were previously approved under OMB Control No. 0648-0489. Framework 40A changes the observer notification requirement so that it is required 72 hours before the start of the trip. This change provides more flexibility to fishermen planning trips but does not alter the burden or cost estimates.

**1) CA I Hookgear SAP:** Framework 40A would implement a SAP to allow limited access hookgear category vessels to target haddock within Closed Area I (CAI) of the NE Multispecies FMP from October 1 - December 31 of the fishing year. The season could be extended by a future management action. The RA may close this SAP once the SAPs cod bycatch or targeted haddock TAC are reached. Based on an experimental fishery, the number of trips into the area before the haddock TAC is caught is expected to be about 500 per quarter, or 2,000 per year if the season is extended to the entire year.**CA II**

**2) Haddock SAP:** Framework 40A would allow all vessels issued a limited access NE multispecies DAS permit to participate in the CAII Haddock SAP. Vessels must comply with specific gear requirements, there is a defined area and season, and catches are limited to a Total Allowable Catches (TACs). There is no limit to the number of trips a vessel may take under this SAP, unless the SAP is closed by the RA.

## **Combined Trips to the Western U.S./Canada Area**

An informal understanding was reached between the United States and Canada regarding the management of GB cod, GB haddock, and GB yellowtail flounder resources found within the waters of both countries within an area known as the U.S./Canada Area. Provisions outlining the U.S. portion of the understanding were incorporated into Amendment 13 to the NE Multispecies FMP. The Amendment 13 implementing regulations do not allow a fishing vessel to fish inside and outside the western U.S./Canada area on the same trip. This practice is referred to in Framework 40A as making a combined trip.

Vessels issued a limited access NE multispecies permit that are fishing under a NE multispecies DAS and wishing to operate within the U.S./Canada Area are required to utilize a VMS. For those vessels that do not currently possess a VMS, vessel owners are required to purchase and install a certified VMS aboard their vessel. Vessels are required to provide proof to the RA that a certified VMS has been installed, including the installation receipt from a NOAA Fisheries-certified VMS vendor. Limited access multispecies vessels intending to fish within the U.S./Canada Area are required to declare their intention to participate in either the Eastern or Western U.S./Canada Area through the VMS prior to leaving port. If fishing in the Western U.S./CA area, they must also state whether they intend to fish inside the western area and outside the western area on the same trip. Once installed, the VMS units of limited access NE multispecies DAS vessels are polled twice per hour regardless of whether they are operating inside or outside of the U.S./Canada Area. Collecting this information is necessary to monitor the activities of vessels participating in the U.S./Canada area, assess the amount of fish harvested under the agreement, and to enforce compliance with the provisions outlined in Amendment 13.

Participants in the Agreement Management Areas (Western U.S./Canada Area and Eastern U.S./Canada Area) under the U.S./Canada Resource Sharing Understanding, including those vessels participating in the Closed Area II (CA II) SAPs specified above, are required to notify NOAA Fisheries of their intent to fish in this area to assist in the deployment of observers. Under current regulations, notifications for the purpose of observer deployment must be submitted at least five days prior to each fishing trip into this area via a telephone call to the contracting company tasked with providing observer coverage. These notifications are used by NOAA Fisheries to ensure that trips into the Agreement Management Areas are included in the pool of vessels that would receive observer coverage. These vessels may then be requested to carry on board a NOAA Fisheries-approved observer or sea sampler. Such requests are made at the discretion of the RA for the purpose of monitoring fishing activities, collection of data and compliance as stated under §648.11.

The above collection requirements were approved in “Northeast Region Permit Family of Forms” (OMB Control No. 0648-0489). Framework 40A will make a minor modification to these requirements. Vessels that choose to fish in the Agreement Management Areas are required to notify NOAA Fisheries of their intent to fish in this area to assist in the deployment of observers. Notifications for the purpose of observer deployment must be submitted at least 72 hours prior (vice five days as approved by OMB Control No. 0648-0489) to each fishing trip into this area via a telephone call to the contracting company tasked with providing observer coverage. While this change will make it easier for fishing vessels to plan fishing trips, it will not increase or decrease the reporting burden. A change to reporting requirements under this program will be addressed in a separate PRA submission for the “Northeast Region Logbook Family of Forms” (OMB Control No. 0648-0212).

**2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.**

The information requested will be used by several offices of NOAA Fisheries and the U.S. Coast Guard for the monitoring, implementation, and enforcement of the provisions outlined in Amendment 13.

As stated previously, Amendment 13 created three categories of DAS within the NE multispecies fishery. Category B DAS may only be used in specific circumstances. Therefore, it is important to determine which category DAS a vessel is using in order to accurately monitor compliance with the regulations. Vessels participating in the Category B (regular) DAS pilot program, the CA II Haddock SAP, or the CA I Hookgear SAP would be required to declare which category DAS they would be operating under prior to each fishing trip. This information must be submitted by those vessels participating in the SAPs every time they intend to operate under the requirements of these SAPs. This information would be used by NOAA Fisheries enforcement personnel to monitor and track DAS usage and insure compliance with the appropriate regulations.

Framework 40A includes provisions modifying the implementation of the U.S./Canada Resource Sharing Understanding. Under this agreement, participating vessels are required to use VMS for all operations within the U.S./Canada Area, including the SAPs identified above. In addition, vessels electing to participate in the CAI Hookgear SAP, the CAII haddock SAP, or the Category B (regular) DAS pilot program would be required to use VMS. Vessels not already possessing a VMS would be required to purchase and install a VMS unit meeting the criteria specified in the final rule for Amendment 13. Vessels would only be required to purchase a certified VMS unit one time. Vessels required to install a new VMS in order to participate in these programs would be required to submit documents to prove that an operational NOAA Fisheries-certified VMS unit has been installed. Once multispecies vessels chose to use VMS, they would be polled twice per hour to determine geographic location regardless of the area they are fishing in. Polling would continue 365 days per year, regardless of vessel activity, unless the VMS is turned off according to the VMS power down exemption process mentioned above. Vessels participating in these programs would be required to notify NOAA Fisheries of their intent to fish in the programs at least 72 hours prior to each trip for the purposes of providing adequate observer coverage on these trips.

The NOAA Fisheries Office of Law Enforcement would use proof of VMS installation and operation, geographic data obtained from the polling of vessels, as well as the area and DAS declaration information provided to participate in the SAPs and the Category B (regular) DAS pilot program to identify participants as well as enforce the program provisions. Vessels may participate in these programs multiple times throughout the fishing year. However, the RA may limit the number of trips into the SAPs or closed areas under these SAPs under specific circumstances. Catch data would be used by NOAA Fisheries to monitor the TACs of species managed under the U.S./Canada Area and approved SAPs, while DAS and area declaration information would be used by enforcement personnel to monitor compliance with effort and area restrictions.

NOAA Fisheries would use notifications of the intent to fish within the SAPs or the Category B (regular) DAS pilot program to ensure that these trips have adequate observer coverage. Vessels would be required to inform NOAA Fisheries of the vessel name, contact name for coordination of observer deployment, telephone number for contact, date, time and port of departure, and the area to be fished. NOAA Fisheries, or a contractor designated to implement the observer program, would use this information to select which vessels, in addition to all other eligible vessels operating outside of these programs, would be requested to carry NOAA Fisheries-approved observers or sea samplers during a specific trip. Observers would be used to monitor vessel activity and to collect catch and discard data.



It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

The declaration of DAS category use will be accomplished electronically through the VMS, if applicable. Also, under the SAPs outlined in Framework 40A, vessels would be required to specify which area of a particular SAP they intend to operate in prior to leaving the dock. This can be accomplished electronically through the VMS. These requirements were previously approved under OMB Control No. 0648-0489.

**4. Describe efforts to identify duplication.**

NOAA Fisheries is aware of all related fishery management activities, and these requirements do not duplicate any in existence.

**5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

Only the minimum data to meet the requirements of the above data needs are requested from all participants. Since most of the respondents are small businesses, separate requirements based on the size of the business have not been developed.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

The consequences of not conducting the collection of information described above would prevent these provisions of Framework 40A from being implemented. This collection of information is necessary for a variety of reasons specific to each particular provision. Failure to collect the above information or collecting it less frequently may compromise the ability of the provisions outlined in Framework 40A to provide opportunities to target healthy stocks without threatening the mortality objectives of Amendment 13. This may also prevent participants from participating in programs specified in Framework 40A such as the SAPs that would offset potential negative economic impacts caused by reductions in DAS that were adopted by Amendment 13.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

Some of the requirements may not be consistent with OMB guidelines with regard to the reporting frequency. While OMB does not allow that respondents be required to report more often than quarterly, requirements for VMS polling requested with this submission will require more frequent reports.

This information collection is required to be submitted twice per hour for vessels fishing in the U.S./Canada Area and/or the associated SAPs within this area. Polling of vessels twice per hour is required in order to accurately monitor vessel position and activity. This information would be used to by NOAA Fisheries Office of Law Enforcement to enforce provisions of the U.S./Canada Area, including those regarding areas fished, transiting of portions of CA II, and possession limits.

**8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported**

Council and Groundfish Oversight Committee meetings during the development of Framework 40A were held during the period January 2004 through May 2004 during which there were opportunities for public discussion of proposed management strategies. The Council approved the measures contained in Framework 40A, including those specified above, on May 12, 2004. The information collections contained in this submission are part of a proposed rule to implement management measures outlined in Framework Adjustment 40A to the NE Multispecies FMP. This rule announces the provisions specified above and solicits public comment on the program and the information collection requirements necessary to implement this program.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

Neither payments nor gifts are given to the respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

All data will be handled in accordance with NOAA Administrative Order 216-100, Confidentiality of Fisheries Statistics, and will not be released for public use except in aggregate statistical form (and without identifying the source of data, i.e., vessel name, owner, etc.). In addition, any information submitted according to the provisions outlined in Amendment 13 would be considered confidential and would not be disclosed except as provided in Section 402(b) of the Magnuson-Stevens Act.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

There are no questions of sensitive nature.

**12. Provide an estimate in hours of the burden of the collection of information.**

The following information is summarized in the table that is at the end of the text. There are approximately 997 individual respondents estimated under this submission. Due to duplication of participants in the various programs, affected entities were only counted once. Regulatory changes contained in this action alter previously approved burden estimates for several programs and would implement new burden estimates for new programs specified under Framework 40A. This submission provides an estimate of new burdens associated with revised or new programs, and updates burden estimates in previously approved submissions.

Amendments 5 and 7 to the NE Multispecies FMP granted the RA the authority to require all NE multispecies vessels to purchase, install, and use a certified VMS upon notice. NE multispecies vessels may voluntarily use VMS, but to date, only 118 vessels have elected to do so. Although this has yet to be required of all NE multispecies vessels, previously approved information collection submissions for these actions included the burdens associated with requiring all NE multispecies vessels to purchase, install, and use a certified VMS unit. The number of vessels used in these burden estimates totaled 1,600 vessels, the number of NE multispecies vessels in the fishery at that time. Since that time, the number of NE multispecies vessels has declined and only 997 vessels are eligible to use Category B (regular) DAS. The number of vessels in the original burden estimates would likely include the additional group of vessels expected to participate in the Category B (regular) DAS pilot program under this submission that would be required to use a VMS. Therefore, the burden associated with purchase and installation of VMS for the participants the Category B (regular) DAS pilot program for this action has already been considered. As a result, for this action, the time burdens of one (1) hour for VMS installation and five (5) minutes (0.083 hours) for the proof of installation are included, but no number of entities is specified. (A previous submission considered the burden associated with purchase and use of a VMS in the CAI Hook Gear Haddock SAP and the CAII Haddock SAP).

In a previous submission, available trip report data was used to obtain an estimate of the number of NE multispecies vessels (those using gear types associated with targeting groundfish, i.e., otter trawl, gillnet, longline) that have previously operated within the area defined as the U.S./Canada Area under Framework 40A. This resulted in an estimate of 400 vessels that would likely participate in the U.S./Canada Area and its associated SAPs. This number is likely to include the 118 NE multispecies DAS vessels that currently use VMS. As a result, these vessels were incorporated into further burden estimates associated with VMS usage.

Once a NE multispecies DAS vessel elects to use VMS in order to fish the Category B (regular) DAS pilot program, these vessels would be polled for vessel position twice per hour regardless of where the vessel operates. The burden associated with polling NE multispecies vessels once per hour has already been accounted for in earlier submissions as described above. Therefore, the additional burden associated with operating for these vessels under this submission would be 24 additional polls per vessel for each day of the year, or an additional 8,760 polls/vessel every year. In addition, a previous submission accounted for polling for position twice per hour for approximately 400 vessels that were expected to fish in the U.S./CA Resource Sharing Understanding area and the SAPs in that area. Every limited access permit holder is eligible to participate in the Category B (regular) DAS pilot program, though some vessels may choose not to do so. Since there are 997 limited access permit holders that were allocated Category B (regular) DAS, and previous submissions accounted for increased VMS polling on 400 vessels, the number of additional vessels that may be affected by this action is 597. The burden for the automated polling of vessel position is estimated to be five (5) seconds (0.001 hours) per poll. For this submission, the additional estimated annualized burden associated with the additional automated polling

is 5,230 hours (24 polls/day x 365 days/year x 597 vessels x 0.001 hours/poll) for the 597 additional vessels eligible to participate in the Category B (regular) DAS pilot program.

Framework 40A creates opportunities to use Category B DAS in two SAPs and in the Category B (regular) DAS pilot program. Vessels using these programs would have to declare their intent to use a Category A or B DAS every time they wished to fish under one of the SAPs or the Category B (regular) DAS pilot program. In addition, these vessels would be required to declare the area in which they intend to fish prior to leaving the dock. These declarations are made through VMS. These declarations are expected to take five (5) minutes (0.083 hours) per response, including time to read through all of the menus and options presented. A previous submission accounted for the burden associated with the CAI hook gear haddock SAP, the CAII haddock SAP, and fishing in the U.S./CA area. Framework 40A does not change the burden estimates for the CAII haddock SAP or fishing in the U.S./CA area. The burden estimates for the CAI haddock SAP, however, are re-estimated because analysis in FW 40A suggests the number of trips in this SAP will not be as large as estimated in OMB Control No. 0648-0489. The total number of trips is now estimated as no more than 2,000 trips if the SAP is extended to a year round access program. Since each trip needs one declaration, this amounts to a total of 2,000 declarations for this submission, resulting in an annualized burden of 166 hours, a reduction from the original estimated annualized burden of 2,347 hours. For the Category B (regular) DAS pilot program, the maximum number of trips possible is 4,000 in a year. It is possible, however, that a vessel could start a Category B (regular) DAS trip and not be able to stay within the low landing limits for stocks of concern. In this case, the vessel would have to change to a Category A DAS (“flip” a DAS) and report the change by VMS. Not only is there a collection burden associated with the DAS “flip,” but once a trip is “flipped” it no longer counts as a Category B (regular) DAS trip. The vessel may then choose to start another trip as a Category B (regular) DAS. It is not possible to know with any certainty how often vessels will “flip” DAS. This submission assumes that half of the Category B (regular) DAS will be flipped, creating a burden for an additional 2,000 Category B (regular) DAS declarations for a total of 6,000 declarations. This results in an annualized burden of 498 hours. In addition, this creates a reporting burden for 2,000 DAS “flips.” It is estimated that reporting a “flip” via VMS will take 5 minutes (0.0833 hours) for a total reporting burden of 166 hours.

Vessels fishing in the CAII haddock SAP must remain within a low cod catch limit in order to use a Category B DAS. If a vessel exceeds the low cod catch limit, it must “flip” to a Category A DAS, creating an additional reporting burden. It is not possible to know how often this will be necessary. Analysis in Framework 40A estimates that the maximum number of DAS that will be fished in this SAP is no more than 2,090. If half these DAS must be “flipped” because the cod catch limit is exceeded, then it creates a burden for 1,045 reports. It is estimated that reporting a “flip” via VMA will take 5 minutes (0.0833 hours) for a total reporting burden of 87 hours. Unlike the Category B (regular) DAS pilot program “flip” provision, this practice will not result in additional trips since the number of trips is limited by a hard TAC on haddock and any catch – regardless of the type of DAS used – is applied against that TAC.

Framework 40A would require vessels participating in the Category B (regular) DAS pilot program, the CAI hook gear haddock SAP, the CAII haddock SAP, and fishing in the U.S./CA area, to notify NOAA Fisheries, or the contracting company tasked with providing observer coverage for Northeast fisheries, of their intent to fish within these programs at least 72 hours prior to each trip. The reporting burden for the CAI hook gear haddock SAP, the CAII haddock SAP, and for fishing in the western U.S./CA area was estimated in a previous submission (OMB control number 0648-0489). For the Category B (regular) DAS pilot program, there are 997 vessels eligible to participate. The maximum number of DAS that can be used in the program is 1,000 per quarter, or 4,000 DAS on an annualized basis. This notification is

expected to take approximately two (2) minutes (0.033 hours) per call. Each vessel is estimated to take approximately one (1) trip in the program during each quarter, resulting in an additional burden of four (4) responses per vessel every year. As a result, this provision would result in an additional burden of 132 hours (4 notifications/year x 997 vessels x 0.033 hours/notification).

A previous submission estimated that the requirement for vessels participating in the CA I Hookgear Haddock SAP to provide advance notice of a trip to the observer program would result in a burden of 933 hours. This submission updates the estimates for the CAI hook gear haddock SAP based on the fewer number of trips that are expected. This estimate was based on 48 trips each by 589 participants. The CAI hook gear haddock SAP proposed in Framework 40A SAP will likely result in no more than 2,000 trips. The revised estimate for the reporting burden associated with this advance notice requirement is 66 hours based on 2,000 notifications that take two (2) minutes (0.033 hours) per call, a reduction in the reporting burden of 867 hours.

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).**

It is difficult to accurately estimate the burden associated with the Category B (regular) DAS pilot program under this action since the frequency of participation will be determined entirely by the vessel owner. All participants in the program must use VMS. All vessels that do not currently possess VMS must obtain one under this provision. The cost of purchasing and installing VMS, along with the associated operational costs, have already been considered in previous information collection submissions for the pool of vessels expected to participate in these SAPs. In fact, the costs associated with these previous estimates for VMS unit purchase and installation (\$6,000) are higher than current cost estimates (\$3,600) and are considered to over-estimate the actual costs. Accordingly, the costs associated with the purchase, installation, and operation of VMS units are not included in this submission.

As stated previously, vessels operating within the U.S./Canada Area, the CAI hook gear haddock SAP, or the CAII haddock SAP must use a VMS. These vessels would be polled twice per hour while operating under these provisions. The costs of this increased polling were considered under a previous submission but were borne by respondents or record keepers. This submission changes the burden estimate for increased polling by shifting it to the government.

Vessels participating in the Category B (regular) DAS pilot program, the U.S./Canada Area, the CAI hook gear haddock SAP, or the CAII haddock SAP that would be created as part of Framework 40A would be required to declare via VMS their intent to fish in one of the programs specified and the category of DAS they intend to use while fishing within the program prior to leaving port for each trip. Each declaration into a program or the area to be fished and DAS to be used via VMS would cost \$1 per submission. The reporting costs for fishing in the Western U.S./Canada area, the CAI hook gear haddock SAP, and the CAII haddock SAP were provided in a previous submission. For the Category B (regular) DAS pilot program, the maximum number of trips that can be taken each year is 6,000 (annualized), so the annualized costs associated with these declarations is \$6,000. Based on the revised estimate of the number of trips that are likely to be taken in the CAI hook gear haddock SAP, the annualized cost associated with the area and DAS declarations for these vessels amounts to \$2,000 a reduction of \$26,272 from the estimate of annualized costs in OMB Control No. 0648-0489.

The 997 possible participants in the Category B (regular) DAS pilot program may be requested to carry on board observers during trips into this area. Information obtained from observers aboard fishing trips

within these SAPs is not considered information submitted by the vessel owner or operator, but rather information submitted by the observer to NOAA Fisheries. For the consideration of this submission, there are no additional costs to the public for observer coverage as specified in Amendment 13.

**14. Provide estimates of annualized cost to the Federal government.**

A full summary of the following information may be found in Table 1.

The NMFS Northeast Region currently operates a VMS system for the Atlantic sea scallop and NE multispecies fisheries. The ongoing (recurring) costs amount to \$300,000 a year and include staff costs, internet connection, training, travel and the annual costs for equipment and the back-up system (see Table 2). These costs are not expected to increase with the VMS requirement for the declaration of DAS category for vessels participating in approved SAPs or the Category B (regular) DAS pilot program under Framework 40A. This declaration is performed through the VMS and is automatically entered into computer databases.

Participants in the Category B (regular) DAS pilot program would be required to notify the observer program contractor prior for NOAA Fisheries prior to each trip. The contractor or NOAA Fisheries will make a determination whether an observer will be required for that trip and will advise the vessel operator. It is expected that approximately 6,000 trips per year may be started in this program in this program. Each response is expected to require approximately 10 minutes (0.17 hours). A wage rate of \$25/hour was used to calculate the annualized cost to the government of \$25,550 for this program. In addition, the government funds the transmission cost for this report, estimated at \$1 for each of the 6,000 trips, or \$6,000, for a total cost to the government of \$31,550. Vessels participating in the CAI hook gear haddock SAP must make a similar notification. The costs for that notification were estimated in a previous submission (OMB Control No. 0648-0489) to be \$120,156 (0.17 hours per response for 589 vessels making 48 trips per year). This submission revises that estimate to \$8,500 (based on a maximum of 2,000 trips an 0.17 hours per response). In addition, the government funds the transmission cost for this report, estimated at \$1 for each of the 2,000 trips, or \$2,000, for a total cost to the government of \$10,500. This is a reduction in estimated costs of \$109,656.

Participants in the Category B (regular) DAS pilot program that exceed low catch limits for certain species are required to notify the government via VMS that they are “flipping” from a Category B DAS to a Category A DAS. The cost of this report will be borne by the government. It is estimated that this may occur on one-third of the trips, or 2,000 times. At an estimated cost of \$1 per notification, this adds \$2,000 to the cost burden for the government.

Costs to the government associated with the CAII haddock SAP and fishing in the western U.S./Canada area were estimated in a previous submission (OMB Control No. 0648-0489) and are not expected to change.

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.**

Amendment 13 met M-S Act requirements to adopt formal rebuilding programs for overfished fisheries, and to end overfishing. The regulations required to reduce fishing mortality on several groundfish stocks will likely result in substantial negative social and economic impacts to the fishing industry. Accordingly, a number of provisions within Framework 40A strive to provide flexibility and

opportunities for the industry to take advantage of stocks in better condition. The proposed data collection would be used to implement and manage the above proposed program changes resulting from new requirements specified under Framework 40A.

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

Results from this collection may be used in scientific, management, technical or general informational publications such as Fisheries of the United States which follows prescribed statistical tabulations and summary table formats. Data are available to the general public on request in summary form only; data are available to NOAA Fisheries employees in detailed form on a need-to-know basis only.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

All forms will display the OMB control number and expiration date along with information relevant to the Paperwork Reduction Act of 1995.

**18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.**

All instances of this submission comply with 5 CFR 1320.9.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

No statistical methods are employed in the information collection procedures.

**Table 1: Costs associated with the Permit Family of Forms (OMB Control # 0648-0202) as modified by Framework Adjustment 40A to the NE Multispecies FMP**

Permit Requirement	# of Entities	Items Per Entity	Total # of Items	Response Time	Total Burden	Cost to:	
						Public	Govt. <sup>(1)</sup>
<b>VMS Installation for Category B (regular) DAS Pilot Program Participants</b>							
VMS Purchase and Installation	0	1	0	1	0	\$0	\$0
VMS Proof of Installation	0	1	0	0.083	0	\$0	\$0
<b>Automated VMS Polling of Vessel Position</b>							
Category B (regular) DAS Pilot Program	597	8,760	5,229,720	0.001	5,230	\$0	\$0
<b>Area and DAS Declaration (time burden and message cost)</b>							
Category B (regular) DAS Pilot Program <sup>(2)</sup>	997	6	6,000	0.083	498	\$6,000	\$0
Category B (regular) DAS Pilot Program - DAS "flip" <sup>(2)</sup>	997	2	2,000	0.083	166	0	\$2,000
CAI Hookgear SAP Area and DAS Declaration (revised estimate)	200	10	2,000	0.083	166	\$2,000	\$0
CAII haddock SAP - DAS "flip" <sup>(3)</sup>	400	3	1,045	0.083	87	\$0	\$523
<b>Observer Notification Requirements</b>							
Category B (regular) DAS Pilot Program <sup>(2)</sup>	997	6	6,000	0.033	198	\$0	\$31,550
Closed Area I Hook-gear SAP (revised estimate)	200	10	2,000	0.033	66	\$0	\$10,500
<b>Totals <sup>(3)</sup></b>	<b>997</b>	<b>8,799</b>	<b>5,248,765</b>		<b>6,410</b>	<b>\$8,000</b>	<b>\$44,573</b>

(1) Assumes wage rate of \$25/hour.

(2) Number of items rounded to the nearest 1,000

(3) Counts affected entities only once.



**Table 2. Costs to the Government from VMS Monitoring.**

<b>VMS Monitoring Annual Costs</b>	Salary and Benefits <sup>1</sup>	\$230,000
	Internet Connection <sup>2</sup>	7,500
	Equipment <sup>3</sup>	20,000
	Back-up System <sup>4</sup>	38,960
	Software Licensing	3,500
	Supplies <sup>5</sup>	11,000
	Training and travel	8,000
	<b>Total ongoing costs</b>	<b>\$300,000</b>
<b>Start-up Costs</b>	Software adaptations	\$100,000
	<b>Total fixed costs</b>	<b>\$100,000</b>
	<b>Annualized Start-up Costs (at 5 year amortization)</b>	\$20,000
<b>Total Annual Costs<sup>6</sup></b>		<b>\$320,000</b>
<b>Previously Committed Costs</b>		<b>\$300,000</b>
<b>Total Annual Costs<sup>7</sup></b>		
<b>Net Annual Costs to Government from Herring VMS Monitoring</b>		\$20,000

Source: Data supplied by NMFS, Office of Enforcement, Northeast Regional Center, and NMFS Headquarters

1. Salary and benefits, three program support personnel.
2. 24-hour maintenance of secure Internet note at Gloucester, MA.
3. Lease and maintenance contract on CPU and monitor.
4. Lease and maintenance contract on CPU and monitor.
5. Optical storage disks, repairs and supplies associated with non-lease equipment (modem, router, printer, thermal paper, WORM drive).
6. Estimated by adding up annualized start-up costs (\$2,383) to total ongoing costs.
7. System operating costs currently funded to support program for the sea scallop fishery.

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**SUPPORTING STATEMENT  
NORTHEAST MULTISPECIES AMENDMENT 13 VESSEL TRIP REPORTS  
OMB CONTROL NO. 0648-0212**

**INTRODUCTION**

This submission requests Office of Management and Budget (OMB) clearance of data information collection revisions for vessel trip report requirements proposed under Framework Adjustment 40A to the Northeast (NE) Multispecies Fishery Management Plan (FMP). This information collection submission builds upon a previously approved submission under the “Northeast Region Logbook Family of Forms” (OMB Control No. 0648-0212).

The New England Fishery Management Council (Council) is proposing management measures under Framework Adjustment 40A that create additional opportunities for commercial fishing vessels to harvest healthy groundfish stocks. The proposed measures under Amendment 13 include the following provisions requiring either new or revised information collection requirements: (1) A Category B (regular) days-at-sea (DAS) pilot program; (2) Special Access Programs, and (3) United States/Canada Resource Sharing Understanding. This data collection submission requests approval of new and revised information collection requirements to implement the above provisions for Framework Adjustment 40A to the NE Multispecies FMP.

**A. JUSTIFICATION**

**1. Explain the circumstances that make the collection of information necessary.**

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Secretary of Commerce (Secretary) has responsibility for the conservation and management of marine fishery resources off the coast of the United States. The majority of this responsibility has been delegated to the Regional Fishery Management Councils and the National Oceanic and Atmospheric Administration’s (NOAA’s) NOAA Fisheries. The New England Fishery Management Council (NEFMC; Council) develops management plans for fishery resources in New England. The Northeast Multispecies Fishery Management Plan manages twelve regulated groundfish species.

In order to monitor fishing vessel effort and the resulting landings, Section 303(a)(5) of the Magnuson-Stevens Act allows the Secretary to collect specific types of information that would identify the catch by species and other information regarding the time and location of fishing effort. This information is most often collected in the form of vessel trip reports (VTRs). VTRs identify the participants of a fishery and monitors their activity levels and landings. This information is necessary to enforce the management measures and prevent overfishing. In general, information requirements for an effective monitoring and enforcement system include:

- Identification of the participating vessels, operators, and dealers;
- Location of the fishing activity;
- Activity levels; and
- Catch and landings information.

The current regulations outlining the reporting requirements, including VTRs, for vessel owners and operators are specified at § 648.7(b). Additional reporting requirements for vessels fishing in the U.S./Canada area or the Closed Area II Yellowtail Flounder SAP are specified in § 684.85(a)

and 648.85(b). Framework 40A includes new provisions that would create new reporting requirements for those vessels electing to fish in the Category B (regular) DAS pilot program, CAI hook gear haddock SAP, the CAII haddock SAP, or vessels fishing combined trips to the western U.S./Canada area. This would be in addition to the VTRs specified above. Collecting this information would be necessary to monitor the activities of vessels participating in the SAPs, the Category B (regular) DAS pilot program, and fishing inside and outside the western U.S./Canada area; assess the amount of fish harvested under the agreement, including bycatch of cod; and to enforce compliance with other provisions outlined in Framework 40A. These data are crucial to the monitoring of fishing effort and discards to ensure compliance with the mortality objectives of Amendment 13.

In 1999, the Council began development of an amendment to the management plan that would end overfishing and adopt required rebuilding plans for overfished stocks. In the case of Conservation Law Foundation, et al. V. Evans (Case No. 00CV011234), the U.S. District Court for the District of Columbia (Court) required the Council, along with the NOAA Fisheries, to implement management measures that would prevent overfishing and help rebuild groundfish stocks managed under the NE Multispecies FMP by a specific date. Interim measures were put into place on August 1, 2002, until Amendment 13 to the FMP could be developed. The Court required Amendment 13 to be implemented by May 1, 2004. On November 6, 2003, the Council approved measures outlined in Amendment 13, including those provisions specified above, to meet the court-ordered deadline. Amendment 13 was implemented on May 1, 2004. The implementation of Amendment 13 brought the FMP into full compliance with the provisions of the Sustainable Fisheries Act and other applicable law, and complied with the Court-ordered implementation deadline of May 1, 2004. Amendment 13 included programs to facilitate targeting of healthy groundfish stocks, but only two of these programs were approved by NOAA Fisheries. The Council has developed Framework 40A to create additional opportunities to target healthy stocks so that the Magnuson-Stevens Act requirement to attain optimum yield from the fishery can be met.

One of the ways the Northeast Multispecies Fishery Management Plan controls fishing mortality is by limiting the number of days that vessels can fish. Amendment 13 assigned each limited access permit holder a number of days-at-sea (DAS) that can be used. These DAS are categorized these as either Category A DAS or as Category B DAS. The management measures in Amendment 13 (including the allocation of Category A DAS) are designed so that the mortality objectives will be met for all stocks. The number of allocated Category A DAS was chosen so that the appropriate amount of effort would be available. Category A DAS could be used beginning May 1, 2004 to target any regulated groundfish stock. Any Category B DAS that are used increased the amount of effort. In order to prevent these additional DAS from threatening the mortality objectives of Amendment 13, Category B DAS can only be used to target healthy groundfish stocks. Amendment 13 further defined Category B DAS as either Category B (regular) or Category B (reserve) DAS and placed limits on how each can be used. Only one program to use Category B DAS that was included in Amendment 13 was approved by NOAA Fisheries – a special access program (SAP) designed to harvest yellowtail flounder in a closed area on Georges Bank.

Amendment 13 implemented provisions created as part of the U.S./Canada Resource Sharing Understanding. Provisions regulating the U.S. portion of the agreement have been incorporated into Amendment 13 to the NE Multispecies FMP. This informal agreement was reached between the United States and Canada regarding the management of Georges Bank (GB) cod, GB haddock, and GB yellowtail flounder resources found within the waters of both countries in an area known as the U.S./Canada Area. This area is further divided into an eastern and western area. In the western area, only

catches of yellowtail flounder are limited by the understanding. Regulations implementing Amendment 13 restrict a vessel to fishing in one area – a vessel cannot fish both inside and outside the western U.S./Canada area on the same trip. Framework 40A alters those provisions by allowing vessels to fish both inside and outside the western U.S./Canada area on the same trip. In order to accurately monitor the catches of yellowtail flounder taken in the western area, vessels are required to report their catches of yellowtail flounder when moving in and out of the area. This report is submitted electronically using a Vessel Monitoring System (VMS).

Framework 40A would establish two new special access programs (SAPs) that would allow vessels to fish for haddock within specified areas and under certain conditions. Vessels participating in these SAPs can use either a Category A or a Category B DAS. These SAPs are the CAI Hook Gear Haddock SAP and the Closed Area II (CA II) Haddock SAP Pilot Program. Part of the management strategy for these SAPs includes the use of total allowable catches (TACs) for each of the species of concern and the target species. These TACs would be used to limit the amount of cod and haddock taken by vessels of fishing in these SAPs so that mortality targets are not exceeded. In order to monitor the catches of cod and haddock, vessels are required to report catches (kept and discarded) on a daily basis through VMS.

Framework 40A includes a pilot program that would allow Category B (regular) DAS to be used outside of any SAPs. Vessels participating in this program must meet the following permit requirements:

- They must purchase, install and use an approved Vessel Monitoring System.
- Vessel operators must notify NMFS 72 hours in advance of a Category B DAS trip so that NOAA Fisheries can plan observer coverage.
- Vessel operators must notify NOAA Fisheries that they are using a Category B (regular) DAS at the start of the trip. This notification will be made through the VMS.
- While using a Category B (regular) DAS, vessel operators are limited to very low landing limits for certain groundfish stocks that are in poor condition. If these landing limits are exceeded, vessel operators must change the DAS being used to a Category A DAS. This notification (called “flipping” a DAS) must be made through the VMS and must occur before the vessel returns to port.

These requirements were addressed in a separate PRA submission. In addition, the Category B (regular) DAS pilot program includes the following reporting requirement: vessel owners or operators must report the catch (kept and discarded) of stocks of concern daily through the VMS. This reporting requirement will be addressed in this PRA submission for the “Northeast Region Logbook Family of Forms” (OMB Control No. 0648-0212).

## **2. Explain how, by whom, how frequently, and for what purpose the information will be used.**

Landings reports specified under the Category B (regular) DAS pilot program, the CAI hook gear haddock SAP, the CAII haddock SAP, and the western U.S./Canada area provisions of Framework 40A would require the owner or operator of a vessel fishing under a NE Multispecies day-at-sea (DAS) to report catches (both kept and discarded) on a daily basis when operating in these programs. To minimize reporting requirements, only catches of certain species must be reported for each program. For the Category B (regular) DAS pilot program, vessels must report catches of stocks of concern - that is, regulated groundfish stocks that are overfished or that are subject to overfishing. These catches must be

reported by statistical area so they can be assigned to the correct stock. For the CAI Hook Gear Haddock SAP, vessels must report catches of haddock and stocks of concern. For the CAII Haddock SAP, vessels must report catches of cod, haddock, and yellowtail flounder consistent with the requirements for vessels fishing in the eastern U.S./Canada area. Vessels fishing combined trips to the western U.S./Canada area must report catches of yellowtail flounder, by statistical area. This information would be submitted via VMS. Vessels would still be required to submit VTRs for trips within the U.S./Canada Area, in addition to the daily electronic catch and discard reporting via VMS.

The information collected under this submission would be used by several offices of NOAA Fisheries, the U.S. Coast Guard, the Council, and state fishery enforcement agencies under contract to NOAA Fisheries to develop, implement, and monitor fishery management strategies. The primary purpose is to monitor catches so that the Total Allowable Catch of each species, for each program, is not exceeded. These type of data serve as input for a variety of uses, including biological analyses and stock assessments, regulatory impact analyses, quota allocation selections and monitoring, economic profitability profiles, trade and import tariff decisions, allocation of grant funds among states, and analysis of ecological interactions among species. NOAA Fisheries would be unable to fulfill the majority of its scientific research and fishery management missions without these data.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

The new information collection provisions associated with Framework 40A involve the electronic reporting of catch and discards of fish by vessels electing to fish in the Category B (regular) DAS pilot program, the CAI hook gear haddock SAP, the CAII haddock SAP, and vessels fishing combined trips in the western U.S./Canada area. This information is required to be submitted via VMS. This incorporates the most advanced means of reporting this information to date. This information would supplement other catch and effort information submitted using VTRs for each trip. Future actions may implement provisions that would replace VTRs with electronic catch reporting for all trips taken by vessels within the Northeast Region.

The Northeast Regional Office (NERO) is also investigating the use of optical character recognition software to ease the burden of the reporting system on the government. Such a system would “read” the data directly from a form and enter it into a database, reducing the need for manual data entry. It would not reduce the burden on the public, however.

**4. Describe efforts to identify duplication.**

NOAA Fisheries is aware of all related fishery management activities, and these requirements do not duplicate any in existence. Electronic daily reporting of catch and discards would only be required of

groundfish DAS participants in the programs established by Framework 40A. In addition, these vessels would also be required to submit their current VTRs. The NERO is investigating the feasibility of incorporating electronic reporting into all fisheries currently requiring the submission of VTRs.

**5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

Only the minimum data to meet the requirements of the above data needs are requested from all participants. Since all of the respondents are small businesses, separate requirements based on the size of the business have not been developed.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

Daily catch and discard information would allow NOAA Fisheries to accurately monitor fishing mortality and catch rates on these species as a result of fishing within these programs. For these programs, groundfish species are managed by TACs. Without daily catch information, these TACs may be exceeded as the data from VTRs may take up to several weeks to process, even if submitted in a timely manner. Exceeding the TACs for these species could result in closure of certain portions of the U.S./Canada Area for the remainder of that fishing year and a reduction of that species' overall TAC for the following fishing year, as well as violate the U.S./Canada Understanding. Exceeding the TACs could also result in fishing mortality rates rising above legal limits and reaching levels that would require additional reductions in fishing effort in the future. Therefore, timely catch and discard data would facilitate the effective management of the groundfish fishery. Failure to collect this information would prevent NOAA Fisheries from monitoring vessel effort and fishing mortality, thereby compromising the potential to end overfishing and rebuild groundfish stocks.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

The requirements specified in this submission are not consistent with OMB guidelines with regard to the reporting frequency. While OMB does not allow that respondents be required to report more often than quarterly, the provision requiring daily electronic catch and discard reporting requested with this submission would necessitate more frequent reports.

This information collection is required to be submitted on a daily basis for vessels fishing in the approved programs. Daily catch reporting is required in order to accurately monitor the catch and discard of groundfish species in these programs. This information would be used to determine if and when the TAC for each species has been caught. Without daily monitoring, accurate assessments of fishing mortality may not be possible.

**8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported**

The Council held many Council and Groundfish Oversight Committee meetings during the development of Framework 40A from January 2004 through May 2004 during which there were opportunities for public discussion of proposed management strategies. The Council approved the measures contained in Framework 40A, including those specified above, on May 8, 2004. The information collections contained in this submission are part of a proposed rule to implement management measures outlined in Framework 40A to the NE Multispecies FMP. This rule announces the provisions specified above and solicits public comment on the program and the information collection requirements necessary to implement this program.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

Neither payments nor gifts are given to the respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

All data will be handled in accordance with NOAA Administrative Order 216-100, Confidentiality of Fisheries Statistics, and will not be released for public use except in aggregate statistical form (and without identifying the source of data, i.e., vessel name, owner, etc.). In addition, any information submitted according to the provisions outlined in Amendment 13 would be considered confidential and would not be disclosed except as provided in Section 402(b) of the Magnuson-Stevens Act.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

There are no questions of sensitive nature.

**12. Provide an estimate in hours of the burden of the collection of information.**

It is difficult to accurately estimate the burden associated under this action since the frequency of participation will be determined entirely by the vessel owner. Table 1 summarizes the burden hours, number of respondents, and the total costs for reporting requirements proposed in Framework 40A to the NE Multispecies FMP.

This submission is an estimate of the new data collection burden associated with daily electronic catch reporting for the Category B (regular) DAS pilot program, the CAI hook gear haddock SAP, the CAII haddock SAP, and fishing combined trips to the western U.S./Canada area. Vessels participating in these programs and required to submit daily catch and discard information would still be required to submit VTRs according to the regulations at § 648.7(b) and to comply with other reporting requirements specified in § 648.85. As a result, this submission only includes the additional burden associated with the daily electronic reporting of regulated groundfish catch and discard. Previously approved burden estimates, including those associated with vessel reporting via VTRs are not affected by this submission. The new burden estimate documented by this submission is based upon the number of participants that are likely to participate in the various programs or the number of days that may be fished.



The Category B (regular) DAS Pilot Program is limited to 1,000 DAS per quarter of the fishing year, or 4,000 DAS fished on an annualized basis. One catch report must be submitted for each DAS on trips that begin as a Category B (regular) DAS Pilot Program trip. It is possible, however, that some vessels may start a day fishing on a Category B (regular) DAS but change to a Category A DAS because they are unable to comply with low catch limits for stocks of concern. There is no information on how often this will occur, so an assumption is that it may occur on half the trips. This would increase the number of reports by an additional 2,000. Daily electronic reporting through VMS of catch and discards for regulated groundfish is expected to take approximately 15 minutes (0.25 hours) per response. This estimate includes the time to read through all of the menus and options presented. It is likely this response time will decrease as operators become familiar with VMS operations. This results in a total annualized burden estimate of 1,500 hours (0.25 hours/report x 6,000 reports).

Vessels participating in the CAI hook gear haddock SAP must report catches and discards on a daily basis. Based on an experimental fishery conducted in 2003, the haddock catch allocated to this SAP will be taken in 500 days fished per quarter or less, or a total of 2,000 days fished on an annualized basis. As proposed in Framework 40A, this SAP will only take place in one quarter, but future actions may extend the season so the annualized number of trips is used in this analysis. A catch report must be submitted for each day fished, for a total of 2,000 catch reports. Daily electronic reporting of catch and discards for regulated groundfish is expected to take approximately 15 minutes (0.25 hours) per response. This estimate includes the time to read through all of the menus and options presented. It is likely this response time will decrease as operators become familiar with VMS operations. This results in a total annualized burden estimate of 500 hours (0.25 hours/report x 2,000 reports).

Vessels participating in the CAII haddock SAP must submit daily catch reports. This SAP takes place within the U.S./Canada area. Amendment 13 requires vessels fishing in this area to submit daily catch reports for cod, haddock and yellowtail flounder, a reporting burden that was estimated in a previous submission. The reporting requirements for the CAII haddock SAP mirror this requirement, and does not increase the number of reports or the time expected to complete those reports. There is no additional reporting burden as a result of this action.

Vessels fishing on trips that may move in and out of the western U.S./Canada area must submit catch reports daily and when crossing the boundary of the area. The requirement for daily reports while fishing in the western U.S./Canada area was implemented through Amendment 13 and the reporting burden was included in an earlier submission. Framework 40A adds a requirement to submit a catch report when crossing the boundary into or out of the western U.S./Ca area. It is difficult to estimate the reporting burden since the decision to fish across the boundary is an individual one made by each vessel operator. Available trip report data was used to obtain an estimate of the number of multispecies vessels (those using gear types associated with targeting groundfish, i.e., otter trawl, gillnet, longline) operating within this area. This resulted in an estimate of 400 vessels that would likely participate in the U.S./Canada Area fisheries. These vessels made approximately 2,000 trips into this area during the period analyzed. If every trip is assumed to fish both inside and outside the area, and to cross the boundary twice, there will be a requirement for an additional 4,000 daily catch reports (2,000 trips X 2 boundary crossings X one report per crossing). Daily electronic reporting of catch and discards is expected to take approximately 15 minutes (0.25 hours) per response. This estimate includes the time to read through all of the menus and options presented. It is likely this response time will decrease as operators become familiar with VMS operations, however. This results in a total annualized burden estimate of 1,000 hours (0.25 hours/report x 4,000 reports).

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).**

All participants in these programs must use VMS. All vessels that do not currently possess VMS must obtain one under this provision. The cost of purchasing and installing VMS, along with the associated basic operational costs, have already been considered in previous information collection submissions of the "Northeast Permit Family of Forms" (OMB Control Number 0648-0202) and another information collection request submitted for Framework 40A for the pool of vessels expected to participate in these programs. Accordingly, the costs associated with the purchase, installation, and operation of VMS units are not included in this submission. Please refer to the supporting statement accompanying the Northeast Multispecies Framework Adjustment 40A Data Collection and the most recent submission of OMB form 0648-0202 for more information.

These other information collection submissions include costs associated with the basic operation of a VMS. These costs involve those associated with polling and electronic messages for each vessel. Currently, there are two certified vendors, Boatracs and Skymate, that provide VMS services to vessels fishing in the Northeast Region. The most expensive vendor charges a monthly operations fee of approximately \$150 for each vessel using VMS. However, this rate is a basic estimate and would vary from vessel to vessel based primarily upon the number of electronic messages sent and received by individual vessels.

Costs involved with this submission include only those associated with the additional submission of daily catch and discard reports for vessels operating within these programs. The NMFS plans to assume all costs associated with these additional reports, so they are described in the following section. The most expensive vendor charges a fee of \$0.004 for each character in an electronic message. Daily reports of catch and discards would likely require the entry of a maximum of approximately 36 characters per submission. Each submission of catch information would cost \$0.50 to submit in addition to the cost of the characters, for a maximum charge of \$0.64/submission. Based on the number of trips described above, there will be 10,000 additional reports. Using the above costs, this would amount to a total annualized cost of \$6,400.

**14. Provide estimates of annualized cost to the Federal government.**

The NMFS Northeast Region currently operates a VMS system for the Atlantic sea scallop and NE multispecies fisheries. The estimates of the annual administrative and enforcement costs to the Federal Government from this program are summarized in Table 2. The ongoing (recurring) costs amount to \$320,000 a year and include staff costs, internet connection, training, travel and the annual costs for equipment and the back-up system. These costs are not expected to increase with the VMS requirement for the submission of electronic catch reporting for vessels participating in the programs authorized by Framework 40A.

Costs involved with this submission include only those associated with the additional submission of daily catch and discard reports for vessels operating within these programs. The NMFS plans to assume all costs associated with these additional reports. The most expensive vendor charges a fee of \$0.004 for each character in an electronic message. Daily reports of catch and discards would likely require the

entry of a maximum of approximately 36 characters per submission. Each submission of catch information would cost \$0.50 to submit in addition to the cost of the characters, for a maximum charge of \$0.64/submission. Based on the number of trips described above, there will be 12,000 additional reports. Using the above costs, this would amount to a total annualized cost of \$7,680.

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.**

Amendment 13 met M-S Act requirements to adopt formal rebuilding programs for overfished fisheries, and to end overfishing. The regulations required to reduce fishing mortality on several groundfish stocks will likely result in substantial negative social and economic impacts to the fishing industry. Accordingly, a number of provisions within Framework 40A strive to provide flexibility and opportunities for the industry to take advantage of stocks in better condition. The proposed data collection would be used to implement and manage the above proposed program changes resulting from new requirements specified under Framework 40A.

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

Results from this collection may be used in scientific, management, technical or general informational publications such as *Fisheries of the United States* which follows prescribed statistical tabulations and summary table formats. Data are available to the general public on request in summary form only; data are available to NOAA Fisheries employees in detailed form on a need-to-know basis only.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

This information submission would be carried out via electronic means. As a result, no standardized data collection forms would be collected as part of this submission.

**18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.**

All instances of this submission comply with 5 CFR 1320.9.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

No statistical methods are employed in the information collection procedures; the requirements are optional for all eligible participants in the NE multispecies fishery.

**Table 1: Costs associated with the Logbook Family of Forms (OMB Control # 0648-0212) as modified by Amendment 13 to the NE Multispecies FMP**

Requirement	# of Entities	Items Per Entity	Total # of Items	Response Time (hours)	Total Burden	Cost to:	
						Public <sup>(1)</sup>	Govt.
Electronic Vessel Trip Reports - Category B (regular) DAS pilot program	997	4	6000	0.25	1,500	\$0	\$3,840
Electronic Vessel Trip Reports - CAI Hook Gear Haddock SAP	NA	NA	2000	0.25	500	\$0	\$1,280
Electronic Vessel Trip Reports - Combined Trips to the Western U.S./Canada Area	400	10	4000	0.25	1,000	\$0	\$2,560
<b>Totals</b>	<b>400</b>	<b>35</b>	<b>12000</b>		<b>3000</b>	<b>0</b>	<b>\$7,680</b>

(1) Assumes a maximum of 36 characters per report.

(2) All items rounded to the nearest 1,000

**Table 2. Costs to the Government from VMS Monitoring.**

<b>VMS Monitoring Annual Costs</b>	Salary and Benefits <sup>1</sup>	\$230,000
	Internet Connection <sup>2</sup>	7,500
	Equipment <sup>3</sup>	20,000
	Back-up System <sup>4</sup>	38,960
	Software Licensing	3,500
	Supplies <sup>5</sup>	11,000
	Training and travel	8,000
	<b>Total ongoing costs</b>	<b>\$300,000</b>
<b>Start-up Costs</b>	Software adaptations	\$100,000
	<b>Total fixed costs</b>	<b>\$100,000</b>
	<b>Annualized Start-up Costs (at 5 year amortization)</b>	\$20,000
<b>Total Annual Costs<sup>6</sup></b>		<b>\$320,000</b>
<b>Previously Committed Costs</b>		<b>\$300,000</b>
<b>Total Annual Costs<sup>7</sup></b>		
<b>Net Annual Costs to Government from Herring VMS Monitoring</b>		\$20,000

Source: Data supplied by NMFS, Office of Enforcement, Northeast Regional Center, and NMFS Headquarters

1. Salary and benefits, three program support personnel.
2. 24-hour maintenance of secure Internet note at Gloucester, MA.
3. Lease and maintenance contract on CPU and monitor.
4. Lease and maintenance contract on CPU and monitor.
5. Optical storage disks, repairs and supplies associated with non-lease equipment (modem, router, printer, thermal paper, WORM drive).
6. Estimated by adding up annualized start-up costs (\$2,383) to total ongoing costs.
7. System operating costs currently funded to support program for the sea scallop fishery.

**ATTACHMENT 1:  
INFORMATION THAT MUST BE DISPLAYED ON FORMS  
USED TO COLLECT INFORMATION FROM THE PUBLIC**

· **The policy reasons for collecting the information.**

This information will be outlined in a permit holder letter to be drafted at a later time. A summary of the information that will be presented in that letter is as follows:

This collection of information is necessary to implement and manage the provisions outlined in Amendment 13 to the Northeast (NE) Multispecies Fishery Management Plan (FMP). Management measures under Amendment 13 to the NE Multispecies FMP were developed in response to the ruling of the U.S. District Court for the District of Columbia in the case of Conservation Law Foundation, et al. V. Evans (Case No. 00CV011234). These measures were approved by the New England Fishery Management Council (Council) on November 6, 2003.

· **The way in which the information will be used to further performance of agency functions.**

This information will be outlined in a permit holder letter to be drafted at a later time. A summary of the information that will be presented in that letter is as follows:

The information requested in the specified provisions will be used by several offices of NMFS to implement the specific provisions, including monitoring catch resulting from fishing within the U.S./Canada Area, among others. Information collected through this information request would enable enforcement officials, including the U.S. Coast Guard, to monitor compliance with the provisions of the FMP, including those governing participation in the U.S./Canada Area and possession restrictions.

· **An estimate of the average burden using the specified format.**

This information will be provided at the bottom of the instruction form describing how participants may report catch electronically that will be included with a permit holder letter describing Amendment 13 provisions that will be crafted at a later time.

· **Whether responses are voluntary, required to obtain or retain a benefit, or mandatory.**

This information will be provided at the bottom of the instruction form describing how participants may report catch electronically that will be included with a permit holder letter describing Amendment 13 provisions that will be crafted at a later time.

· **The nature and extent of confidentiality to be provided, if any.**

This information will be outlined in a permit holder letter to be drafted at a later time. A summary of the information that will be presented in that letter is as follows:

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

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