

## **FRAMEWORK ADJUSTMENT 42 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN**

The information below is intended to provide only a summary of the new regulations implemented under Framework Adjustment (FW) 42 to the Northeast (NE) Multispecies Fishery Management Plan (FMP), effective November 22, 2006. Not every change implemented under FW 42 is covered in this document. Therefore, NOAA Fisheries Service strongly recommends reading all permit holder letters and Vessel Monitoring System (VMS) information received in order to understand the new regulations. For additional information and to access the NE multispecies fishing regulations including the FW 42 regulations, please visit <http://www.nero.noaa.gov/nero/hotnews/multifw42fr/>.

### **DAYS-AT-SEA (DAS) ALLOCATION**

**Q:** Will my DAS allocation be affected by FW 42?

**A:** FW 42 does not change your baseline allocation or the distribution of your DAS allocation, as called for by Amendment 13. Distribution of your DAS baseline is summarized below.

| <b>Fishing Years</b>                         | <b>DAS Allocation</b>  |
|--|--|
| 2006 through 2008                            | Category A DAS = 55% of baseline<br>Category B DAS = 45% of baseline |
| 2009 and beyond, unless otherwise determined | Category A DAS = 45% of baseline<br>Category B DAS = 55% of baseline |

Therefore, for fishing years 2006-2008, Category A DAS will equal 55% of your DAS baseline, and Category B DAS will equal 45% of your DAS baseline. Beginning in the 2009 fishing year, unless otherwise determined, Category A DAS will equal 45% of your DAS baseline, and Category B DAS will equal 55% of your DAS baseline.

### **VESSEL MONITORING SYSTEM (VMS) REQUIREMENT**

**Q:** I have a NE multispecies DAS permit. Will I be required to get a VMS in order to fish my NE multispecies DAS?

**A:** Yes. As of November 22, 2006, all limited access NE multispecies DAS vessels must have an approved and operational VMS on board their vessel prior to fishing any of their NE multispecies DAS. Specific information regarding the VMS unit must be provided to NOAA Fisheries Service. A permit holder letter was sent to you providing detailed information on the procedures pertaining to VMS purchase, installation, and use.

**Q:** If I do not obtain a VMS, will I lose my NE multispecies permit?

A: No. If you do not fish your NE multispecies DAS, you are not required to get a VMS. However, you still must renew your limited access permit each year, as currently required.

Q: If I do not fish my NE multispecies DAS, but lease them to another vessel, do I need to purchase a VMS?

A: No. You only need to purchase a VMS unit if you will be fishing under a NE multispecies DAS with your vessel.

Q: Do I still need to use the DAS call-in system to report my fishing trips to NOAA Fisheries Service?

A: No, unless otherwise notified, prior to leaving the dock, vessels must declare through VMS that they will be fishing under NE multispecies DAS. However, for declarations of time out of the NE multispecies fishery (*i.e.*, spawning blocks out and Day gillnet vessel blocks out), vessels must continue to use the Interactive Voice Response (IVR) call-in system. The IVR call-in number is (888) 284-4904.

Q: If I have a valid Gulf of Maine (GOM) cod exemption authorization or yellowtail flounder Letter of Authorization (LOA), do I need to report via VMS once FW 42 goes into effect?

A: Under FW 42, you no longer need to obtain a yellowtail flounder LOA for the different stock areas, nor do you need to report through VMS. However, in order to be exempt from the GOM cod possession limit the current GOM cod exemption authorization is replaced with a requirement to declare through VMS that your vessel will be fishing south of the GOM Regulated Mesh Area (GOM RMA) prior to each trip. This is accomplished by submitting the “Gulf of Maine Trip Limit Exemption” form through your VMS unit. If you already have a GOM cod exemption LOA, you will need to report via VMS only after your LOA expires.

Q: Will I have to pay for the VMS unit, or will NOAA Fisheries Service pay for it?

A: You must first purchase a VMS unit from an approved Northeast vendor. However, NE multispecies vessel owners are eligible for reimbursement for the purchase of a VMS unit. Please see the October 6, 2006 VMS reimbursement permit holder letter for more information.

Q: If I have trouble with my VMS unit and/or codes, who can I contact for assistance?

A: If you are experiencing equipment problems with your VMS unit, please call your VMS vendor or local dealer for assistance. If you need assistance making a VMS declaration for your fishing trip, submitting a VMS form, or determining your DAS balance, please call the NOAA Fisheries Service Office of Law Enforcement VMS Team at (978) 281-9213. If you first have questions about the fisheries regulations before you

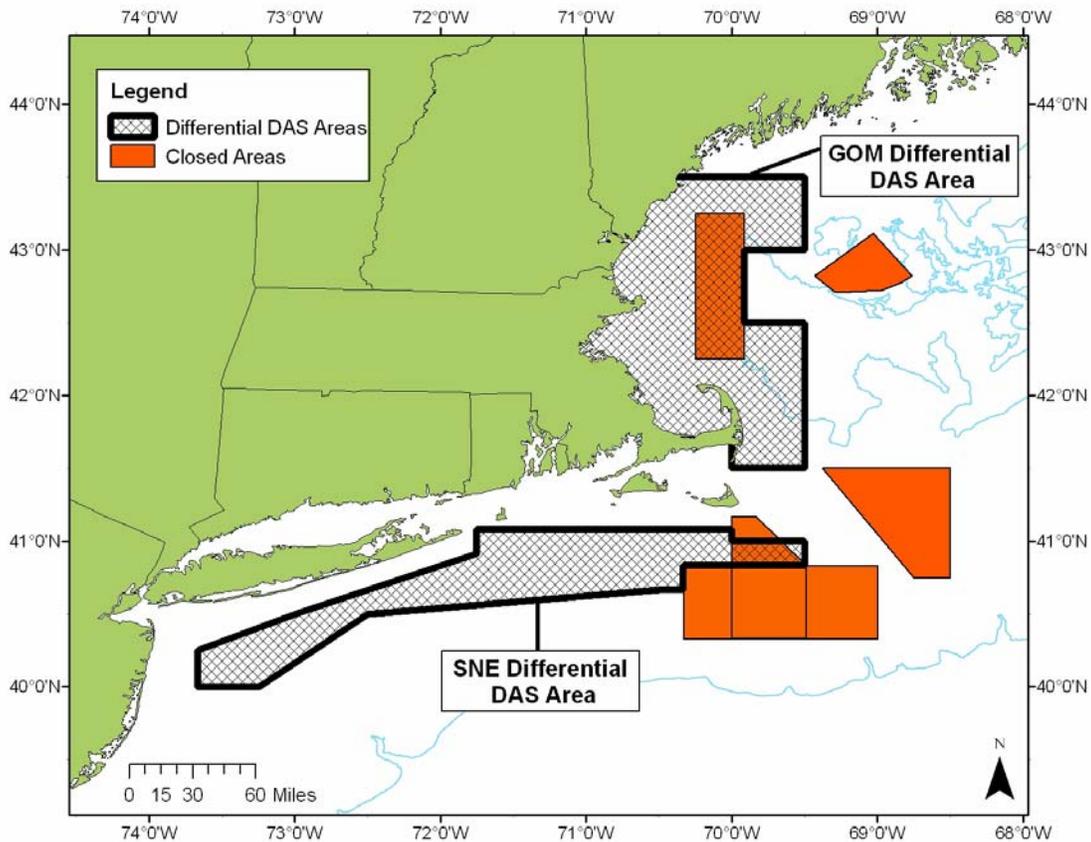
make a declaration or submit a form through your VMS unit, please call the NOAA Fisheries Service Sustainable Fisheries Division at (978) 281-9315.

## DIFFERENTIAL DAS

Q: What does differential DAS counting mean?

A: Differential DAS counting means that vessels fishing under a NE multispecies Category A DAS in specific areas will be charged at a different DAS rate than the actual DAS fished. Under FW 42, vessels will be charged at a differential rate of 2 days for every 1 day fished when fishing in specific areas within the GOM or the Southern New England (SNE) Regulated Mesh Areas. These areas are referred to as the GOM Differential DAS Area (GOM DA) and the SNE Differential DAS Area (SNE DA), respectively (see Figure 1).

**Figure 1. GOM DA and SNE DA**



Q: Do I have to inform NOAA Fisheries Service that I will be fishing in these areas?

A: Yes. Prior to leaving the dock, or, if fishing in the Eastern U.S./Canada Area, prior to leaving the Eastern U.S./Canada Area, you must declare through your VMS that you will be fishing in the applicable differential DAS area.

Q: If I fish a portion of my trip in a differential DAS area and a portion of the same trip outside of a differential DAS area, will I be charged the differential DAS rate for the entire trip?

A: If you fish any portion of a trip in the GOM DA, you will be charged the differential DAS rate (2:1) for the entire trip. If you fish a portion of a trip in the SNE DA and then spend a portion of the trip fishing in another area, you will be charged the differential rate only for the time spent in the SNE DA, unless the second area fished is the GOM DA (see table below).

| <b>Area Fished During Entire Trip</b>                                    | <b>Differential DAS Rate Charged</b>   |
|--|--|
| Inside of the GOM DA   | 2:1 DAS for the entire trip  |
| Inside of the SNE DA   | 2:1 DAS for the entire trip  |
| Inside and outside of the GOM DA   | 2:1 DAS rate for the entire trip   |
| Inside and outside of the SNE DA (if the area outside IS NOT the GOM DA) | 2:1 DAS rate for the portion of the trip inside the SNE DA, 1:1 for the portion of the trip outside the SNE DA |
| Inside and outside of the SNE DA (if the area outside IS the GOM DA)     | 2:1 DAS rate for the entire trip   |

Q: May I transit the differential DAS areas?

A: Yes. A vessel that does not declare that it will be fishing in the differential DAS areas is allowed to transit the areas, provided its fishing gear is properly stowed according to the regulations.

Q: May I move into the differential DAS areas when not fishing to avoid periods of bad weather?

A: A vessel may move into the differential DAS areas for any reason other than transiting or fishing (*e.g.*, weather or mechanical breakdown); however, the vessel must immediately notify NOAA Fisheries Service through VMS that it is in the area.

Q: If I fish in the differential DAS areas as a Day gillnet vessel, how will my DAS be charged?

A: A Day gillnet vessel fishing within the differential DAS areas will be charged DAS as follows:

| <b>Differential DAS counting for Day gillnet vessels</b> |                    |               |
|--|--------------------|---------------|
| <b>Actual Hours Fished</b>                               | <b>DAS Charged</b> |               |
|  | <b>GOM DA</b>      | <b>SNE DA</b> |
|  |                    |               |

|                             |  |  |
|-----------------------------|--|--|
| Trips less than 3 hours     | 2:1 DAS counting ,<br>regardless of whether vessel<br>fishes in or outside of area | 2:1 for DAS fished in the<br>area, plus<br>1:1 for DAS fished outside<br>of the area   |
| Trips between 3 - 7.5 hours | 15 hours   | 15 hours if a vessel fished<br>between 3-7.5 hours<br>within the area, plus any<br>DAS fished outside of the<br>area at 1:1* |
| Trips longer than 7.5 hours | 2:1 DAS counting   | 2:1 for DAS fished in the<br>area, plus<br>1:1 for DAS fished outside<br>of the area   |

\*The net DAS charge may not be less than the DAS charge for a trip outside of the SNE DA under the 3-15 rule.

Example: If a Day gillnet vessel fishes in the SNE DA for 2.5 hours and outside of the SNE DA for 3 hours, the vessel would be charged for 15 hours because the DAS charge within the SNE DA would be less than the DAS charge if the vessel fished outside of the SNE DA for an equivalent time. When fishing within the SNE DA, the vessel would be charged 8 hours (2.5 hr inside SNE DA at 2:1 plus 3 hours outside SNE DA at 1:1), while if the vessel fished outside of the SNE DA, a 5.5-hour trip would have resulted in a 15 hour DAS charge (5.5 hours is between 3 – 15 hours).

Q: I have a NE multispecies DAS permit and a monkfish Category C permit and plan to fish under a monkfish DAS in the SNE DA. How will my DAS be counted?

A: When fishing in the SNE DA, your NE multispecies DAS will be charged at a rate of 2:1 and your monkfish DAS will be charged at a rate of 1:1.

Q: If I am already fishing in one of the differential DAS areas when the new rules go into effect, am I allowed to stay in the area?

A: No. If you are fishing in a differential DAS area under a NE multispecies DAS before the new rules go into effect, you must exit the area prior to November 22, 2006. Upon exiting, you may remain at sea and fish in another area for the rest of your trip.

#### TRIP LIMITS

Q: If I am fishing in a differential DAS area where I am charged 2 DAS for every 1 DAS fished, is my trip limit based on DAS fished or DAS charged?

A: All trip limits apply based on the actual DAS spent fishing, not on the number of DAS charged. For example, if a vessel fishes for 2 actual DAS in the GOM DA, it will be charged 4 DAS, but could only land 2 DAS worth of GOM cod, or 1,600 pounds.

Q: If I am on a trip when the new regulations go into effect, what trip limits should I follow?

A: You will be subject to the trip limits in place at the time the fish were caught. For example, if a vessel fished on a trip in the GOM that lasted from November 20-24, the vessel would be allowed to land up to 2,800 lb of GOM cod (2 DAS x 600 lb/DAS plus 2 DAS x 800 lb/DAS).

**Summary of Regulated NE Multispecies Trip Limits for Limited Access NE Multispecies Vessels Fishing on a Category A DAS**

| Species                     | Stock Area        | Category A DAS Trip Limits   |
|-----------------------------|-------------------|--|
| Cod                         | GOM               | 800 lb/DAS, up to 4,000 lb/trip for DAS vessels  |
|                             |                   | 300 lb/trip for Handgear A vessels   |
|                             |                   | 75 lb/trip for Handgear B vessels  |
|                             | GB                | 500 lb/DAS, up to 5,000 lb/trip<br>(Eastern U.S./Canada Area)  |
|                             |                   | 1,000 lb/trip<br>(Eastern U.S./Canada Haddock SAP)   |
|                             |                   | 1,000 lb/DAS, up to 10,000 lb/trip<br>(when fishing outside of the Eastern U.S./Canada Area and south of GOM RMA, provided the vessel submits the GOM Cod Trip Limit Exemption form via VMS) |
| Haddock                     | All Areas         | Unlimited  |
| Yellowtail Flounder         | CC/GOM and SNE/MA | 250 lb/ DAS up to 1,000 lb/trip  |
|                             | GB                | 10,000 lb/trip, unless otherwise modified  |
| Winter Flounder             | GB                | 5,000 lb/trip  |
|                             | GOM and SNE/MA    | Unlimited  |
| White Hake                  | All Areas         | 1,000 lb/DAS, up to 10,000 lb/trip   |
| All Other Regulated Species | All Areas         | Unlimited  |

**NE Multispecies and Skate Landing Limits for Limited Access NE Multispecies Vessels Fishing in the Regular B DAS Program**

| Species | Landing Limits for Trips Ending Under a Regular B DAS* | Landing Limits for Trips Ending Under a Category A DAS |
|---------|--|--|
|         |  |  |

|  | Haddock Separator Trawl Gear  | Non-trawl Gear   | All Gear Types   |
|--|---|--|--|
| Gulf of Maine (GOM) Cod                    | 100 lb/DAS, up to 1,000 lb/trip of each stock   |  | 800 lb/DAS, up to 4,000 lb/trip  |
| George's Bank (GB) cod                     |   |  | 1,000 lb/DAS, up to 10,000 lb/trip (when exempt from the GOM cod trip limit)<br>500 lb/DAS, up to 5,000 lb/trip (Eastern U.S./Canada Area) |
| American Plaice                            | 100 lb/DAS, up to 500 lb/trip of all flatfish species combined                              | 100 lb/DAS, up to 1,000 lb/trip of each stock            | Unlimited  |
| Witch Flounder                             |   |  | Unlimited  |
| GB Yellowtail Flounder                     |   |  | 10,000 lb/trip, or as modified by the Regional Administrator   |
| GB Winter Flounder                         |   |  | 5,000 lb/trip  |
| Southern New England (SNE) Winter Flounder |   |  | Unlimited  |
| Cape Cod/GOM Yellowtail Flounder           | 25 lb/DAS, up to 250 lb/trip and not to exceed 500 lb/trip of all flatfish species combined | 25 lb/DAS, up to 250 lb/trip of each stock               | 250 lb/DAS, up to 1,000 lb/trip of each stock  |
| SNE Yellowtail Flounder                    |   |  |  |
| White Hake                                 | 100 lb/DAS, up to 1,000 lb/trip   |  | 1,000 lb/DAS, up to 10,000 lb/trip   |
| Skates (except barndoor and thorny skates) | 500 lb/trip   | 10,000 lb of skate wings for trips less than 24 hours    | 10,000 lb of skate wings for trips less than 24 hours  |
|  |   | 20,000 lb of skate wings for trips greater than 24 hours | 20,000 lb of skate wings for trips greater than 24 hours   |

**\*Possession of lobsters is prohibited when fishing with a haddock separator trawl on trips that end on a Regular B DAS under the Regular B DAS Program.**

**Monkfish Trip Limits (lb is in tail weight, unless otherwise specified) for Vessels Issued Category C, D, E, or F Monkfish Permits and Fishing in the Regular B DAS Program**

| Permit Category | Area | Monkfish Trip Limits for trips Ending under a Regular B DAS              | Monkfish Trip Limits for trips Ending under a Category A DAS              |                |
|-----------------|------|--|---|----------------|
|                 |      | Haddock Separator Trawl Gear   | Trawl Gear  | Non-Trawl Gear |
| C or D          | NFMA | 500 lb/trip (whole weight)   | No Trip Limit   |                |
|                 | SFMA | 500 lb/trip (whole weight) or 50 lb/DAS (tail weight), whichever is less | 50 lb/DAS   |                |
| F               | NFMA | 500 lb/trip (whole weight)   | 400 lb/DAS or 50% of the total weight of fish on board, whichever is less |                |
|                 | SFMA | 500 lb/trip (whole weight) or 50 lb/DAS (tail weight),                   | 300 lb/DAS  | 50 lb/DAS      |

|          |             |  |  |
|----------|-------------|--|--|
|          |             | whichever is less  |  |
| <b>E</b> | <b>NFMA</b> | 500 lb/trip<br>(whole weight)  | 400 lb/DAS or 50% of the total weight of<br>fish on board, whichever is less |
|          | <b>SFMA</b> | 500 lb/trip (whole weight) or<br>50 lb/DAS (tail weight),<br>whichever is less | 50 lb/DAS  |

## REGULAR B DAS PROGRAM CHANGES

**Q:** Will my Regular B DAS be counted at the differential rate when I am fishing in the differential DAS areas (GOM and SNE DAS)?

**A:** No, differential DAS do not apply when you are fishing in the Regular B DAS Program. Rather, as currently required, you will be charged one full Regular B DAS for every calendar day, or part of a day, fished, regardless if you fished any part of the trip in either of the differential DAS areas. However, if a vessel catches more than the trip limits allowed under the Regular B DAS Program and, therefore, has to flip to a Category A DAS trip, it will be charged Category A DAS for the entire trip (not just the day that it flips from Regular B DAS to a Category A DAS) and DAS used will be subject to the differential DAS rules for the entire trip (please see “Differential DAS” section).

**Q:** How many Regular B DAS may I use per trip?

**A:** The number of Regular B DAS that a vessel may use on a trip cannot exceed the number of Category A DAS that the vessel has at the start of that trip. If a vessel is fishing in the GOM DA or SNE DA, the number of Regular B DAS that can be used on a trip cannot exceed the number of Category A DAS the vessel has at the start of the trip divided by 2. This is necessary in order to account for the number of Category A DAS needed if the vessel is required to flip to Category A DAS. For example, if a vessel plans a trip in the GOM DA under the Regular B DAS Program and has 10 Category A DAS available, the maximum number of Regular B DAS that the vessel could fish on that trip under the Regular B DAS Program would be 5.

**Q:** What are the gear requirements when fishing under the Regular B DAS Program?

**A:** Vessels fishing with trawl gear that are participating in the Regular B DAS Program must use a haddock separator trawl, as currently defined in the regulations. Gear other than the haddock separator trawl may be on board a vessel, provided it is stowed according to the regulations.

## DAS TRANSFER PROGRAM CHANGES

### MAJOR CHANGES

- The vessel transferring its NE multispecies DAS permit (transferor) is no longer required to give up all state and Federal fisheries permits and may acquire other fishing permits after the transfer of its NE multispecies DAS.
- The transferor's non- NE multispecies permits no longer automatically expire, but may be transferred as a bundle to the vessel receiving the NE multispecies DAS.
- Duplicate permits will expire.
- A vessel may not consolidate DAS or other allocations from non- NE multispecies permits.
- The transferee would specify which vessel's DAS (the transferor or transferee) would be subject to the conservation tax.
- The conservation taxes (20% on Category A and B DAS, 90% on Category C DAS) are maintained.

Q: When a DAS transfer occurs, which vessel receives the fishing history?

A: All history (catch, DAS use, permit rights) associated with the transferred permit is acquired by the vessel receiving the transferred DAS (transferee).

Q: If I receive a DAS permit in a DAS Transfer transaction, do my vessel baseline specifications change?

A: The transferee vessel's new baseline specifications (horsepower, length overall, gross tonnage) are the smaller baseline of the two vessels involved in the transfer. The transferee vessel could adopt the larger baseline of the two vessels if it had not previously upgraded under the vessel replacement rules and if the upgrade falls within applicable limits. This would count as the vessel's one time baseline upgrade.

#### EASTERN U.S./CANADA AREA FLEXIBILITY

Q: Am I allowed to fish in the Eastern U.S./Canada Area and in another area on the same trip?

A: A vessel may fish in the Eastern U.S./Canada Area and in another area (called "flexing") on the same trip. The vessel must declare a flex trip through VMS either prior to leaving the dock or prior to leaving the Eastern U.S./Canada Area.

Q: May I fish for yellowtail flounder in the Eastern U.S./Canada Area and in another area on the same trip?

A: If a vessel fishes in the Eastern U.S./Canada Area and possesses yellowtail flounder in excess of the trip limits for CC/GOM and SNE/MA yellowtail flounder, it may not leave the Eastern U.S./Canada Area and fish in the CC/GOM or SNE/MA areas. The vessel could continue to fish within the Western U.S./Canada Area for the remainder of the trip.

Flex Conditions:

- The vessel must comply with the reporting requirements for the Eastern U.S./Canada Area for the entire trip.
- All cod and haddock caught on the entire trip will be applied to the Eastern U.S./Canada Area total allowable catches (TACs), while all yellowtail flounder will be applied to the overall U.S./Canada Management Area TAC for this species.
- Unless a vessel is fishing under a Regular B DAS, DAS will be charged for the entire trip. Vessels will not receive any steaming time credit to or from the Eastern U.S./Canada Area.

Q: Am I allowed to fish in the Eastern U.S./Canada Area and either the GOM DA or SNE DA on the same fishing trip?

A: Yes. You are allowed to fish in the Eastern U.S./Canada Area and the GOM DA and/or SNE DA on the same fishing trip, provided you make the appropriate VMS declaration prior to leaving dock, or prior to leaving the Eastern U.S./Canada Area. (For additional information please see next Q&A).

Q: If I fish inside and outside of the Eastern U.S./Canada Area, what would my trip limits be?

A: If a vessel fishes inside and outside of the Eastern U.S./Canada Area, it must comply with the more restrictive landing limits and DAS charges. For example, if a vessel fishes for yellowtail flounder in the Eastern U.S./Canada Area and the GOM DA on the same trip, it must comply with the landing limits for Cape Cod/GOM yellowtail flounder and GOM cod and the DAS charges associated with the GOM DA since those are more restrictive.

## STANDARDIZED REQUIREMENTS FOR SPECIAL MANAGEMENT PROGRAMS

Special Management Programs:

- Closed Area I Hook Gear Haddock SAP
- Easter U.S./Canada Haddock SAP
- Category B (Regular) DAS Program
- U.S./Canada Management Area

Q: If I am fishing in a Special Management Program and I exceed a trip limit, what should I do?

A: If a vessel is participating in any of the Special Management Programs and exceeds ANY of the NE multispecies trip limits (under either Category B or A DAS), it must flip immediately from a Category B DAS to a Category A DAS (unless the vessel is a sector vessel fishing in CA I Hook gear haddock SAP), if fishing under a B DAS (through VMS), and depending upon what program the vessel is fishing under, it may be required

to exit the Special Management Program immediately (see table below). This is a change from past regulations that did not require flipping to occur until immediately prior to crossing the VMS demarcation line on a vessel's return to port.

| <b>Special Management Program</b>   | <b>Action Required</b>   |
|-------------------------------------|--|
| Closed Area I Hook Gear Haddock SAP | Non-sector vessels must exit the SAP                           |
| Eastern U.S./Canada Haddock SAP     | All vessels must immediately flip to an A DAS and exit the SAP |
| Regular B DAS Program               | All vessels must immediately flip to an A DAS                  |

**Q:** If I am on a trip when the new FW 42 rules go into effect and I am fishing in a Special Management Program, am I subject to the old rules for Special Management Programs or the new FW 42 rules for that trip?

**A:** Unless a vessel “flexes” out of a Special Management Program, if it departs on a trip prior to the effective date of the new reporting rules it is subject to the old rules for the Special Management Programs. It may report using the pre-November 22, 2006, version of the VMS software and will be subject to the old reporting requirements for the entire trip.