



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

February 13, 2009

Small Entity Compliance Guide

Dear Northeast (NE) Multispecies Permit Holder:

As a result of the January 26, 2009, Court Order in the case of Commonwealth of Massachusetts and State of New Hampshire v. Carlos M. Gutierrez (Civil Action No.: 06-12110-EFH) (Court Order), the NE multispecies regulations implemented under Framework Adjustment 42 to the NE Multispecies Fishery Management Plan have been suspended until further notice. This letter is to inform you of the regulatory provisions of 50 CFR part 648 that have not been affected by the January 26, 2009, Court.

FOLLOWING ARE A LIST OF MEASURES NOT IMPACTED BY THE COURT ORDER

Recordkeeping and Reporting

- All vessel permit requirements at § 648.4.
- Fishing Vessel Trip Reports (VTR) and electronic dealer reporting requirements at § 648.7.

Gear Restrictions

- The minimum net mesh size requirements in the Gulf of Maine (GOM) and Georges Bank (GB) Regulated Mesh Areas (RMA) specified at § 648.80(a).
- Limits on the number and size of gillnets or number of hooks a vessel may fish in all RMAs, as specified at § 648.80.
- Gillnet tagging requirements found at § 648.80(a), (b), and (c).
- Gear restrictions specified at § 648.80(g), including gillnet requirements to reduce or prevent marine mammal takes and prohibitions on the use of pair trawls, brush sweeps, or materials that obstruct or constrict the meshes of the net.

Exemptions

- The small mesh and large mesh exempted fisheries described at § 648.80.
- The state waters winter flounder exemption, including all provisions and requirements at § 648.80(i).

Days at Sea (DAS)

- The allocation of DAS for each vessel based on the calculations of the used DAS baseline described at § 648.82(c). Amendment 13 established the system of dividing DAS into Category A, B, and C DAS. This ratio was scheduled to automatically adjust to 55% A DAS and 45% B DAS in fishing year (FY) 2006 and currently remains in effect.
- DAS authorized for use through the annual carryover or Large Mesh permit category provisions at §§ 648.82(c)(1) and 648.82(b)(4), respectively.



- DAS lease applications approved prior to January 26, 2009. Any DAS leased prior to January 26, 2009, can continue to be used by the lessor vessel for the remainder of FY 2008.

DAS Declaration and Accounting

- Requirements for NE multispecies vessels to notify NOAA’s National Marine Fisheries Service (NMFS) of participation in the DAS program as described at § 648.10(c).
- DAS declarations may be made through an approved vessel monitoring system (VMS) or through the interactive voice response (IVR) call-in system as specified at § 648.10(c)(1).
- The ‘3-15 Rule,’ whereby Day gillnet vessels accrue 15 hours of DAS for each trip of more than 3 hours, but less than or equal to 15 hours, as specified at § 648.82(j)(1)(iii).

Time/Area Closures

- Spawning season block requirements at § 648.82(g).
- Gillnet block requirements detailed at § 648.82(h).
- Restricted Gear Areas I-IV at § 648.81(j) through (m).
- All year-round closed areas, GOM Rolling Closure Areas, the GB Seasonal Closure Area, and essential fish habitat closures described at § 648.81.

Minimum Commercial Fish Sizes

- The following commercial size limits are unchanged:
 - Cod..... 22 in.
 - Haddock..... 19 in.
 - Pollock..... 19 in.
 - Witch flounder (gray sole)..... 14 in.
 - Yellowtail flounder..... 13 in.
 - American plaice (dab)..... 14 in.
 - Atlantic halibut..... 36 in.
 - Winter flounder (blackback)... 12 in.
 - Redfish..... 9 in.

U.S./Canada Management Area

- The hard total allowable catch (TAC) amounts for GB yellowtail flounder, Eastern GB cod, and Eastern GB haddock established annually under the U.S./Canada Resource Sharing Understanding, as specified at § 648.85(a).
- The requirement to notify the NE Fishery Observer Program at least 72 hours prior to starting a trip in the U.S./Canada Management Area, at § 648.85(a)(3)(ii)(C).
- The requirement to use an approved VMS to declare a vessel’s intent to fish in the U.S./Canada Management Area, at § 648.85(a)(3)(i).
- The requirement for trawl vessels to use either a haddock separator trawl or a flounder net when fishing in the Eastern U.S./Canada Area, as described at § 648.85(a)(3)(iii).
- The provision allowing transit of Closed Area II when fishing in the Eastern U.S./Canada Area at 648.85(a)(3)(vii).
- The authority of the Regional Administrator to revise trip limits or close the Eastern U.S./Canada Area to prevent overharvest of the hard TACs for Eastern GB cod, Eastern GB haddock, or GB yellowtail flounder, as specified at § 648.85(a)(iv)(E) and reflected in possession limited detailed below.

Closed Area II Yellowtail Flounder Special Access Program (SAP)

- The provisions of this SAP detailed at § 648.85(b)(3), including the authority of the Regional Administrator to specify the number of trips into this SAP and the formula for determining the number of trips. Therefore, the allocation of zero trips for FY 2008 into this SAP is unchanged.

SNE/MA Winter Flounder SAP

- The provisions of this SAP detailed at § 648.85(b)(4), including limits on winter flounder possession and the requirements to have a summer flounder permit, fish west of 72°30' W. long., and not be under a DAS.

Closed Area I Hook Gear Haddock SAP

- The provisions of this SAP detailed at § 648.85(b)(7), including the October 1-December 31 season split between sector and non-sector participants, Observer notification, VMS requirement, gear restrictions, and prohibitions on DAS flipping.

Possession and Landing Limits

- The GOM cod landing limit at § 648.86(b)(1) remains 800 lb per DAS up to a maximum of 4,000 lb per trip.
- The GB cod landing limit at § 648.86(b)(2) remains 1,000 lb per DAS up to a maximum of 10,000 lb per trip.
- The landing limit for GB cod in the Eastern U.S./Canada Area of 1,000 lb per DAS, or any part of a DAS, up to 10,000 lb per trip as specified by inseason action published in the Federal Register on December 23, 2008, under the Regional Administrator's authority specified above.
- The GB yellowtail flounder trip limit in the U.S./Canada Management Area remains 2,500 lb per trip as specified by inseason action published in the Federal Register on October 27, 2008, under the Regional Administrator's authority specified above.
- Vessels must use the cod running clock provision to land an additional DAS worth of cod when called into only part of an additional 24-hr block as described at § 648.86(b)(1)(ii) and (2)(ii).
- The provision for determining compliance with possession limits by multiplying weight of fillets or other fish parts by 3 at § 648.86(f).
- The requirements to offload catch of species in excess of daily possession limits detailed at § 648.86(i).
- The limit of 1 Atlantic halibut per trip specified at § 648.86(c).
- Small mesh NE multispecies trip limits at § 648.86(d).
- Scallop vessel possession provisions for NE multispecies at § 648.80(h).

Sectors

- The GB Hook Sector, as specified at § 648.87, and under the regulatory exemptions and restrictions detailed in their FY 2008 Operations Plan.

Handgear A Permit

- NE multispecies possession restrictions at § 648.82(b)(6).

- Gear restrictions at § 648.82(b)(6)(i) and (iii).
- Spawning season restrictions at § 648.82(b)(6)(ii).

Open Access Permits

- All Handgear B permit regulations at § 648.88(a).
- All Charter/Party permit regulations at § 648.88(b).
- All Non-Regulated NE Multispecies (Category K) permit regulations at § 648.88(d).

Recreational Measures

- The restrictions on gear requiring 1 line per angler and 2 hooks per line, maximum as specified at § 648.89(a).
- The following minimum recreational size limits at § 648.89(b):
 - GB Cod..... 22 in.
 - Haddock..... 19 in.
 - Pollock..... 19 in.
 - Witch flounder (gray sole)..... 14 in.
 - Yellowtail flounder..... 13 in.
 - American plaice (dab)..... 14 in.
 - Atlantic halibut..... 36 in.
 - Winter flounder (blackback)... 12 in.
 - Redfish..... 9 in.
- The possession limit of 10 cod per person per day and provisions for counting fish and fillets at § 648.89(c).
- The prohibitions on sale of NE multispecies caught by Charter/Party and recreational vessels at § 648.89(d).
- The requirement for Charter/Party vessels to obtain and carry on board the appropriate Letter of Authorization, as specified at § 648.89(e), in order to operate in the Nantucket Lightship Closed Area or in GOM closed areas.

This letter deals only with measures that were not impacted by the January 26, 2009, Court Order and will be followed by additional information on measures that were affected, including possible changes to possession limits, DAS counting, and special management programs, as NMFS determines the full impacts of the Court Order.

This small entity compliance guide complies with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996.

This notice is authorized by the Administrator of the National Marine Fisheries Service, Northeast Region.