



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

Small Entity Compliance Guide

APR -6 2009

Dear Northeast (NE) Multispecies Permit Holder:

This letter is to inform you of interim regulations that will be in effect beginning May 1, 2009. You should have recently received a letter explaining that the current regulations require that Category A days-at-sea (DAS) be reduced by 18 percent through the revision of the Category A to B DAS ratio from 55:45 to 45:55. The following additional regulations to reduce fishing mortality on specific groundfish stocks are being implemented for 180 days. These interim regulations will likely be extended for an additional 185 days to remain in effect for the entire fishing year (FY) 2009.

Based on a recent assessment of groundfish stocks, at least 12 stocks are overfished, and at least 12 stocks are subject to overfishing. The New England Fishery Management Council (Council) is developing Amendment 16 to implement management measures to reduce fishing mortality on particular stocks, implement new sectors and new rebuilding plans, and achieve a variety of goals. However, the development of Amendment 16, which was scheduled for implementation on May 1, 2009, was delayed, and is now anticipated to be implemented on May 1, 2010. Therefore, the Secretary of Commerce developed this interim rule to implement measures for FY 2009 to reduce fishing mortality and contribute toward the rebuilding of overfished stocks.

All management measures that were in effect prior to May 1, 2009, and that are not modified by this interim rule, will remain in effect. The majority of measures that this letter discusses pertain to the commercial fishery. **For new interim measures affecting Private recreational vessels and party/charter vessels, please refer to the last page of this letter.**

The following measures will be in effect beginning May 1, 2009, through at least October 28, 2009, and, if extended by a subsequent action, through April 30, 2010. A subsequent letter will be sent if the interim rule is extended. Because NMFS anticipates extending these interim regulations, the following descriptions of the regulations assume they are valid for the entire FY 2009.

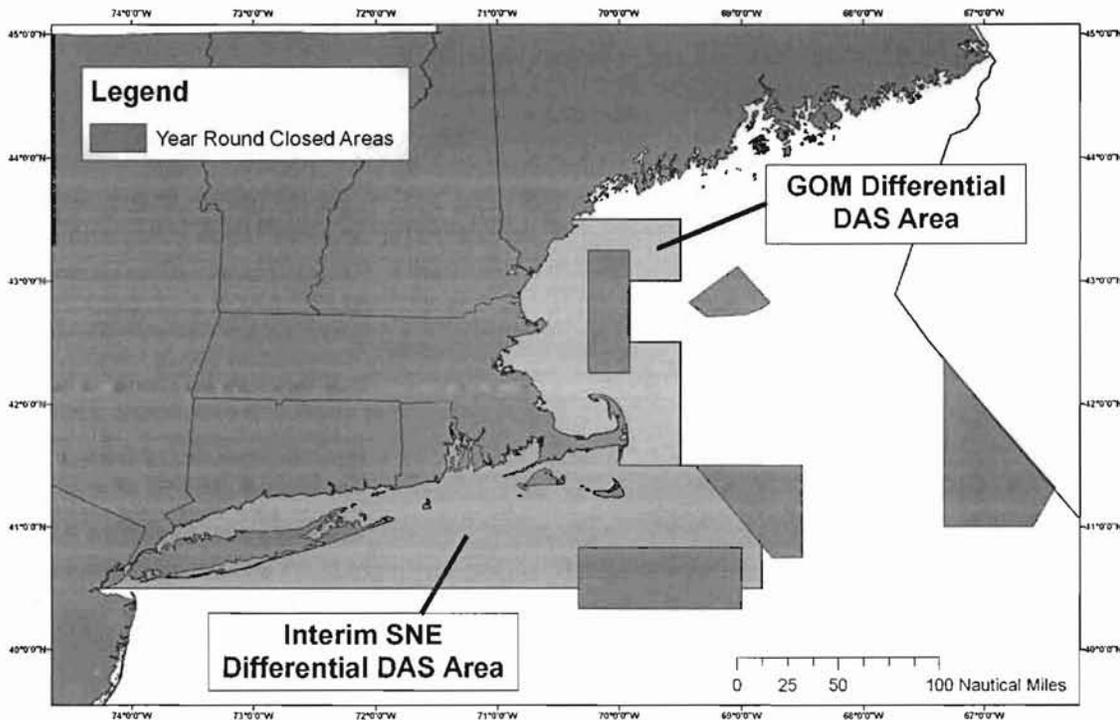
Differential DAS Counting

The existing differential DAS counting area in the Gulf of Maine (GOM) is maintained. However, in Southern New England (SNE), the existing SNE Differential DAS Area is replaced by the Interim SNE Differential DAS Area. This area includes waters between 40° 30' and 41° 30' N. lat., and west of 68° 50' W. long. (i.e., west of the border of the Western U.S./Canada Area) to the shore, including all of Nantucket Sound and the Great South Channel (Figure 1). The Interim SNE Differential DAS Area is being



implemented primarily as a means to reduce fishing mortality on SNE winter flounder and SNE/MA yellowtail flounder.

Figure 1. Depiction of the Interim SNE Differential DAS Area



With the exception of vessels fishing with hook gear, all NE multispecies vessels declared into and fishing under a NE multispecies Category A DAS within the Interim SNE Differential DAS Area for any portion of a trip will be charged DAS at a rate of 2:1 for the entire trip. This method of charging DAS is consistent with how DAS are charged in the current GOM Differential DAS Area, but more restrictive than under the previous rules for the SNE Differential DAS Area implemented in 2006.

Examples:

- If a vessel declares into, and fishes in the Interim SNE Differential DAS Area for 10 hr, the vessel's DAS balance would be charged 20 hr.
- If a vessel transits to another area outside of the Interim SNE Differential DAS Area, it will not be charged at the differential DAS rate, provided it does not declare into or fish at any time during the trip in the Interim SNE Differential DAS Area. For example, if a vessel steams through the Interim SNE Differential DAS Area on its way to and from the fishing grounds in the U.S./Canada Management Area, where DAS are not counted differentially, it will not be charged at the 2:1 rate for any part of the trip.

- If a vessel declares both inside and outside of the Interim SNE Differential DAS Area on the same trip, it will be charged differential DAS at a rate of 2:1 for the entire trip.
- NE multispecies vessels declared into and fishing under a Category A DAS in the Interim SNE Differential DAS Area using hook gear will be charged DAS at a rate of 1:1, provided such vessels have only hook gear on board the vessel.

The new rules do not change the way that NE multispecies DAS are charged for vessels fishing in the GOM Differential DAS Area. Consistent with current regulations, vessels are required to declare their intent to fish in one or both of the differential DAS areas via the vessel monitoring system (VMS) prior to leaving port. Other examples that may be helpful:

- Cod Running Clock: A vessel fishing in the Interim SNE Differential DAS Area for 25 hr that caught 2,000 lb of cod (i.e., 2 day's worth) would not be required to submit the cod running clock form via VMS in order to account for the additional day's worth of cod harvested.
- Day Gillnet Vessels: A Day gillnet vessel declared into and fishing in the Interim SNE Differential DAS Area would be charged DAS at a rate of 2:1 for any trip less than or equal to 3 hr in duration, or greater than 7.5 hr in duration, and 15 hr for any trip greater than 3 hr, or less than or equal to 7.5 hr in duration.

MONKFISH

Impacts of Differential DAS on Monkfish Category C and D Vessels:

Vessels with a limited access Monkfish Category C or D permit fishing in the Interim SNE Differential DAS Area or the GOM Differential DAS Area, under concurrent monkfish and groundfish DAS, must continue to utilize monkfish DAS at a 1:1 rate. However, this rule allows Monkfish Category C and D vessels to accrue a monkfish-only DAS while fishing under a groundfish DAS in a 2:1 differential DAS counting area. For example:

- A limited access monkfish Category C or D vessel with 40 groundfish DAS and 31 monkfish DAS that fishes under a monkfish DAS exclusively in a 2:1 differential DAS counting area for 20 days would use all of its 40 DAS groundfish allocation and, concurrently, 20 DAS of its 31 DAS monkfish allocation. Thus, the vessel would have a remaining balance of zero groundfish DAS and 11 monkfish DAS that may be fished as monkfish-only DAS. For additional information on exemption areas where vessels may fish their monkfish-only DAS, please call (978) 281-9315.

Trip Limits

Table 1. Revised Trip Limits for FY 2009 (in bold type).

Stock	Possession/Trip Limit	Status
SNE winter flounder	Zero/Zero	<i>Modified (no previous limit)</i>
Windowpane flounder north	Zero/Zero	<i>Modified (no previous limit)</i>
Ocean pout	Zero/Zero	<i>Modified (no previous limit)</i>
Witch flounder	1,000 lb/DAS; 5,000 lb/trip	<i>Modified (no previous limit)</i>
GOM cod *	800 lb/DAS; 4,000 lb/trip	No change
Georges Bank cod *	1,000 lb/DAS; 10,000 lb/trip	No change
Eastern U.S./Canada Area cod *	500 lb/DAS; 5,000 lb/trip	No change
White hake	1,000 lb/DAS; 10,000 lb/trip	No change
GOM/Cape Cod yellowtail flounder	250 lb/DAS; 1,000 lb/trip	No change
GB yellowtail flounder	5,000 lb/trip	No change
SNE/Mid-Atlantic yellowtail flounder	250 lb/DAS; 1,000 lb/trip	No change
GB winter flounder	5,000 lb/trip	No change
Atlantic halibut	1 fish/trip	No change

* For limited access NE multispecies DAS vessels. The cod possession/trip limit for Handgear A and B vessels is 300 lb and 75 lb, respectively.

Areas where the zero possession/trip limit rule for ocean pout, windowpane flounder north, and SNE/MA winter flounder applies:

Ocean Pout: The prohibition on retaining any ocean pout applies throughout the entire NE multispecies management area (Maine to North Carolina);

Windowpane Flounder North: Unless otherwise specified below, the prohibition on possessing the northern stock of windowpane flounder applies throughout the northern windowpane stock area as described in Figure 2.

SNE/MA Winter Flounder: Unless otherwise specified below, the prohibition on possessing SNE/MA winter flounder applies throughout the SNE/MA winter flounder stock area as described in Figure 3.

Vessels fishing for winter flounder or windowpane flounder in multiple stock areas are subject to the most restrictive possession/trip limit in any of the areas in which the pertinent species are fished for. For example, a vessel that fishes during a trip in the northern windowpane stock area (Figure 2) is prohibited from possessing or landing windowpane flounder for that trip.

For trips that begin in FY 2008, but end after 00 hr May 1, 2009 (during FY 2009), the most restrictive possession/trip limit will apply. For example, vessels departing on a trip prior to May 1, but landing after May 1, would be prohibited from retaining SNE/MA winter flounder, northern windowpane flounder, and ocean pout; and would be subject to the 1,000 lb/DAS, up to 5,000 lb/trip limit, for witch flounder.

Figure 2. Northern Windowpane Flounder Stock Area (area where prohibition on the retention of windowpane flounder applies)

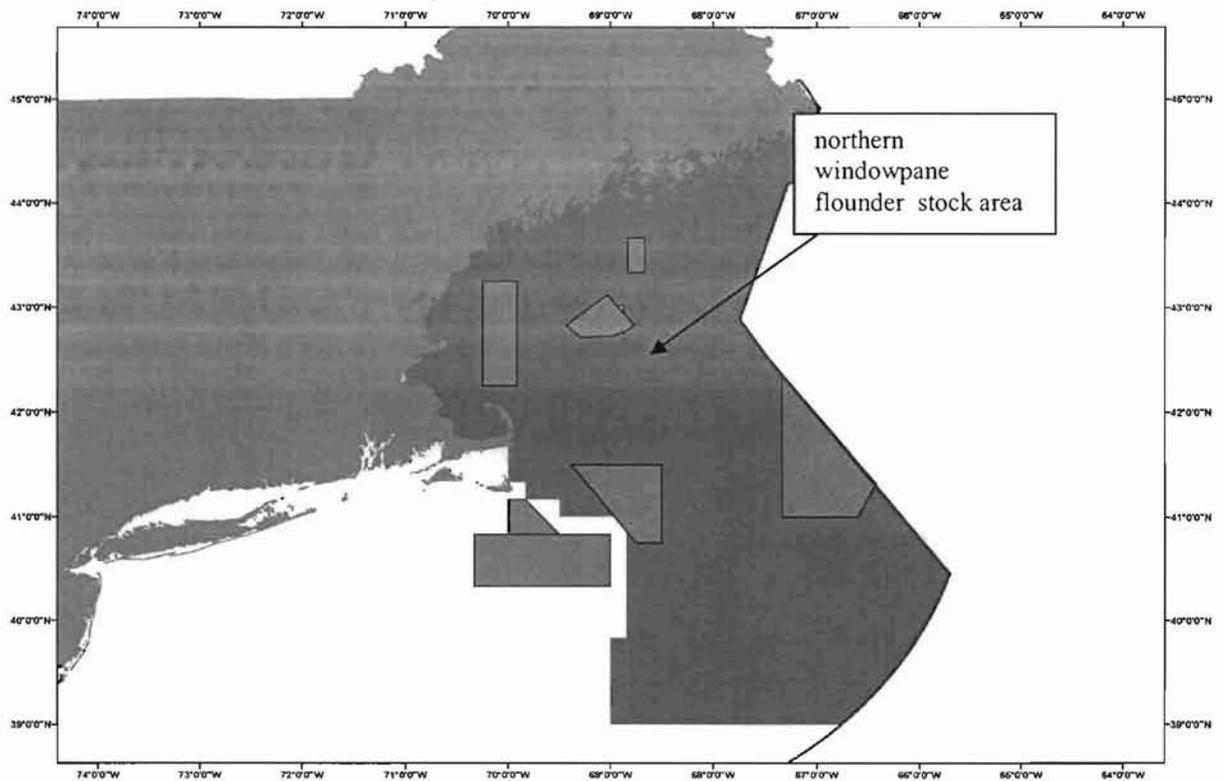
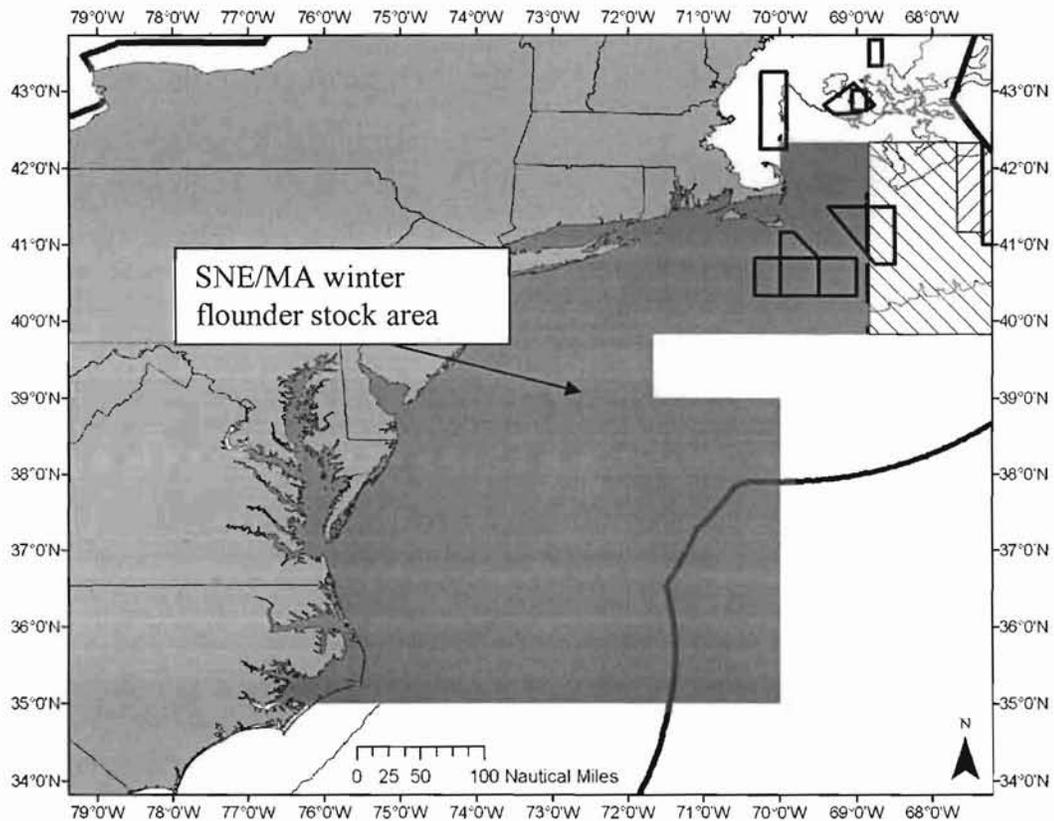


Figure 3. SNE/MA Winter Flounder Stock Area (area where prohibition on the retention of winter flounder applies)



Elimination of the SNE/MA Winter Flounder Special Access Program (SAP)

The current SNE/MA Winter Flounder SAP, which allows a limited access NE multispecies vessel fishing for summer flounder west of 72° 30' W. long. to possess and land up to 200 lb (91 kg) of winter flounder while not under a NE multispecies DAS, is eliminated for the duration of this interim rule.

Elimination of the State Waters Winter Flounder Exemption

The State Waters Winter Flounder Exemption, which allows vessels issued a NE multispecies permit and fishing for groundfish to fish in state waters for winter flounder using gear with mesh smaller than the regulated mesh size, is eliminated for the duration of this interim rule.

Annual Specifications for U.S./Canada Management Area

Total Allowable Catches (TACs)

NMFS has approved the following TACs for the shared GB groundfish stocks of cod, haddock, and yellowtail flounder. The FY 2009 TACs for the U.S./Canada Management Area represent a decrease for cod and yellowtail flounder, and an increase for haddock compared to those specified for FY 2008 (Table 2).

Table 2. FY 2009 U.S./Canada TACs (mt) and Percentage Shares (in parentheses)

	Eastern GB Cod	Eastern GB Haddock	GB Yellowtail Flounder
Total Shared TAC	1,700	30,000	2,100
U.S. TAC	527 (31%)	11,100 (37%)	1,617 (77%)
Canada TAC	1,173 (69%)	18,900 (63%)	483 (23%)

Other Restrictions for the U.S./Canada Management Area

NMFS is also implementing measures to optimize the harvest of the shared U.S./Canada resources, as follows:

- The FY 2009 opening of the Eastern U.S./Canada Area for trawl vessels will be August 1, 2009; longline gear will be allowed access during May through July. Such vessels will be limited to a cod catch of 5 percent of the cod TAC, or 26.4 mt (58,200 lb).
- A possession limit of 5,000 lb per trip for GB yellowtail flounder.
- Authorization of the Ruhle Trawl in the Eastern U.S./Canada Area (in addition to the currently authorized Haddock Separator Trawl and Flounder Net).
- In addition, the Closed Area II Yellowtail Flounder SAP is not authorized for FY 2009.

Revisions to Incidental Catch TACs and Allocations to Special Management Programs

Incidental catch TACs are specified for certain stocks of concern for Special Management Programs. The incidental catch TACs apply to catch (landings and discards) caught under Category B DAS (either Regular or Reserve B DAS) on trips that end on a Category B DAS. Once an incidental catch TAC is caught in a Special Management Program, area closures, DAS use restrictions, or program closures may be implemented. A stock of concern is a stock that is in an overfished condition or subject to overfishing.

Due to the revised status of stocks, an incidental catch TAC is no longer appropriate for American plaice, because it is no longer considered a stock of concern. Further, new incidental catch TACs are specified for GOM winter flounder and pollock because of their current status. The percentages that the TACs are based on remain unchanged, with

the exception of witch flounder, which is reduced from 5 percent to 2 percent, due to its overfished status and the fact that the fishing mortality and total catch need to be reduced. The incidental catch TACs, by stock, based on the target TACs, is shown in Table 3.

Table 3. Incidental Catch TACs for FY 2009 (mt)

Stock	Percentage of Total TAC	Target TAC	Incidental TAC
GB cod	2	5,501	110
GOM cod	1	10,724	107.2
GB yellowtail	2	1,617	32.3
CC/GOM yellowtail	1	860	8.6
SNE/MA yellowtail	1	389	3.9
Pollock	5	6,346	317.3
Witch flounder	2	1,129	22.6
GB winter flounder	2	2,004	40.1
White hake	2	2,376	47.5
GOM winter	5	379	19.0

This interim final rule also modifies the allocation of the incidental catch TACs to the various Special Management Programs due to the changes in status of stocks, and to optimize the design of the programs. For example, the Eastern U.S./Canada Haddock SAP was not used at all in FY 2007, only two trips were taken in the area in FY 2006, and few trips during FY 2008 to date. Therefore, the percent allocations to this SAP are reduced for GB cod, GB yellowtail, and GB winter flounder, and the percent allocation to the Regular B DAS Program is increased due to higher participation in that program historically. The resulting TACs are:

Table 4. Specification of Incidental Catch TACs for Special Management Programs (mt) for FY 2009

Stock	Regular B DAS Program	Eastern U.S./Canada Haddock SAP	Closed Area I Hook Gear Haddock SAP
GB Cod	77	15.4	17.6
GOM Cod	107.2	na	Na
GB Yellowtail flounder	25.8	6.5	Na
CC/GOM Yellowtail flounder	8.6	na	Na
SNE/MA Yellowtail flounder	3.9	na	Na
Pollock	285.6	15.9	15.9
Witch flounder	22.6	na	Na
GB Winter flounder	32.1	8.0	Na
White hake	47.5	na	Na
GOM Winter flounder	19.0	na	Na

Haddock TAC for the CA I Hook Gear Haddock SAP

The haddock TAC for the CA I Hook Gear Haddock SAP for 2009 will be 3,604.5 mt (7,946,337 lb). Once this TAC is projected to be caught, the CA I Hook Gear Haddock SAP will be closed for the remainder of the fishing year.

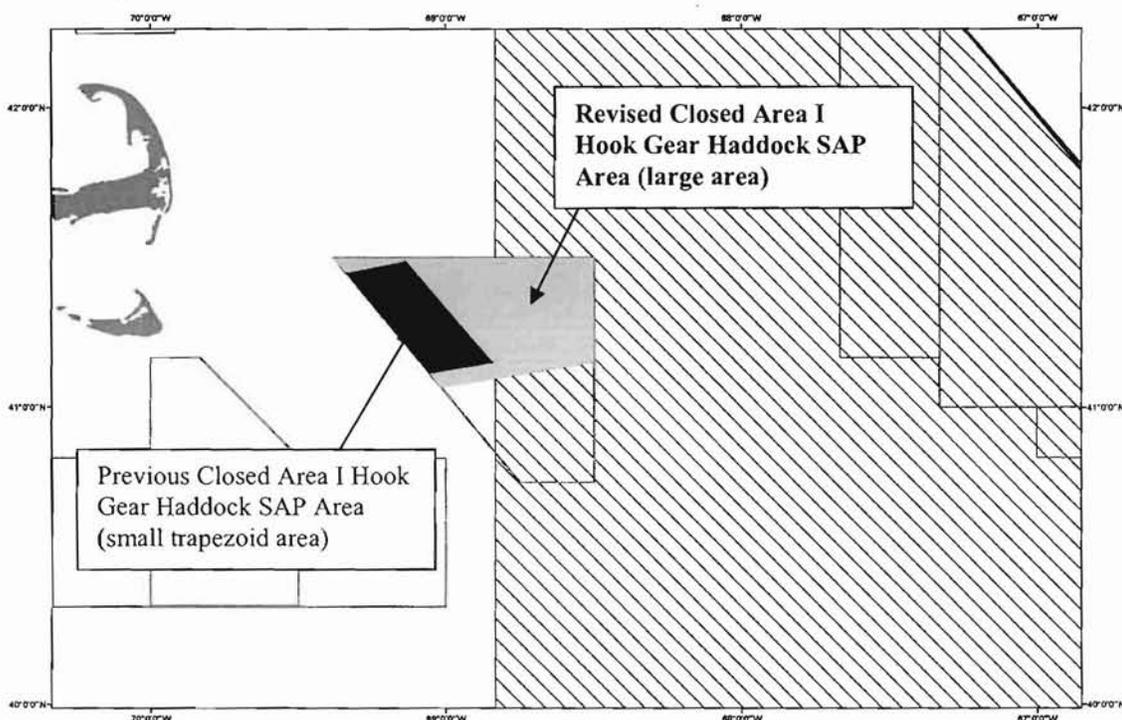
Mitigating Measures

The following measures are intended to mitigate some of the negative economic impacts of the regulations and provide additional flexibility for fishing businesses. Although the intent of these measures and programs is to mitigate and provide additional fishing opportunity, some elements of the measures, which are identified below, represent new restrictions.

Modification of Closed Area (CA) I Hook Gear Haddock SAP

The time period for the CA I Hook Gear Haddock SAP is modified to May 1 through January 31 (the previous time period was from October through December) and the area within CA I where vessels may fish is expanded. Figure 4 below depicts the new SAP area. The division of the SAP into two time periods is eliminated, as well as the allocation of the haddock TAC to the two time periods. All limited access NE multispecies DAS vessels fishing with hook gear may fish in the SAP at any time (provided the SAP is open). A prohibition on the use of squid as bait when fishing in this SAP is implemented, in order to decrease the likelihood of catching cod. This interim rule also eliminates the requirement that vessels intending to participate in the SAP provide a yearly notification to the observer program in advance of the SAP season. The requirement to notify the observer program 72 hr in advance of each trip is maintained.

Figure 4. Revised Closed Area I Hook Gear Haddock SAP Area



The CA I Hook Gear Haddock Access Area is the area defined by straight lines connecting the following N. latitude and W. longitude points, respectively, in the order stated: 41° 09', 68° 30'; 41° 30', 68° 30'; 41° 30', 69° 23'; and 41° 04', 69° 01'.

Reduction of Haddock Minimum Size

The haddock minimum size is reduced to 18 inches for both the commercial and recreational fisheries.

Extension of the Eastern U.S./Canada Haddock SAP

The Eastern U.S./Canada Haddock SAP, which would have expired on April 30, 2009, is extended, in order to continue to facilitate access to GB haddock. This SAP allows vessels fishing with trawl gear to fish in a portion of the Eastern U.S./Canada Area, including a section of the northern portion of CA II (the “triangle”), under a Regular B DAS or a Reserve B DAS. This SAP allows a vessel to utilize a Category B DAS and fish in the “triangle,” which is not otherwise accessible. The geographic area remains unchanged, and the rules that apply remain unchanged, with the exception of the reallocation of the incidental catch TACs (see Table 4).

Modifications to the Regular B DAS Program

There are several revisions to the Regular B DAS Program including a new gillnet restriction:

- In order to prevent the quarterly incidental catch TACs from limiting the usefulness of the program, any quarterly incidental catch TAC that remains uncaught from quarters one, two, and/or three will roll over into the subsequent quarter.
- Due to the number of flatfish stocks that need reductions in fishing mortality, the use of low profile (tie-down) gillnets under this interim action is prohibited on trips fishing under the Regular B DAS Program. The use of gillnet gear to catch haddock is still allowed.
- When 100 percent of the Incidental Catch TAC for white hake, pollock, or witch flounder is harvested, vessels fishing under a Regular B DAS will be prohibited from possessing or landing white hake, pollock, or witch flounder, respectively.

DAS Leasing Program Modifications

The current prohibition on leasing DAS between sector and common pool vessels is eliminated in order to increase flexibility and efficiency in the DAS leasing market. The limit on the maximum number of DAS that a vessel sector and common-pool vessel may lease is eliminated.

DAS Transfer Program Modifications

The DAS conservation tax is removed from the DAS Transfer Program. Specifically, the mandatory reduction of Category A and B DAS (20 percent), and Category C DAS (90 percent), will no longer apply when vessels participate in the DAS Transfer Program. There will be no DAS rebate or refund to those vessels that have already executed a DAS transfer and been subject to the DAS tax that was in effect at the time their DAS transfer occurred.

Gillnet Vessels – Flexibility to Change the Day or Trip Category Designation

The current regulations require groundfish vessels fishing with gillnet gear to make an annual designation as either a Day or Trip gillnet vessel when the vessel is issued or renews a limited access NE multispecies permit. Once a vessel has elected this designation, the vessel may not change its declaration for the remainder of the fishing year. Because these interim measures will affect how DAS are counted during FY 2009, and because the public was unaware of such measures until after many vessels had already selected a gillnet designation for FY 2009, **the interim regulations allow a vessel owner to change the gillnet designation (Day Gillnet Vessel or Trip Gillnet Vessel) associated with his/her permit.** To change your gillnet designation for FY 2009, you can mail an application or a written request to the Northeast Region Permit Office at the address above. **Requests to change gillnet designations for FY 2009 must be received or postmarked on or before June 8, 2009.** To request an application, contact the Northeast Region Permit Office at (978) 281-9370.

RECREATIONAL MEASURES

This interim action reduces fishing mortality on the GOM cod, GB cod, and SNE winter flounder fisheries for private recreational vessels fishing in the EEZ, and for federally permitted charter/party vessels, commensurate with the reductions for the commercial fishery.

Charter/Party Vessels:

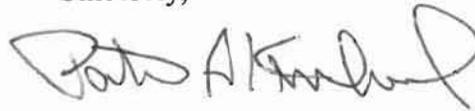
- A GB cod trip limit of 10 cod per person per day for charter/party vessels is implemented;

Private Recreational Vessels fishing in the EEZ and Charter/Party Vessels:

- The seasonal prohibition on the possession of GOM cod is extended from its current duration of November through March, to November through April 15;
- Retention of winter flounder caught in the SNE/MA stock area is prohibited (see Figure 3 on page 6. Vessels fishing in possession of winter flounder caught outside of the SNE/MA winter flounder stock area may transit this area, provided all bait and hooks are removed from fishing rods, and any winter flounder on board has been gutted and stored; and
- As a mitigation measure, the minimum size for haddock caught by private recreational vessels is reduced to 18 inches (previously 19 inches).

Because of the large amount of interest in this action and revisions made to the measures included in the proposed interim rule, the NMFS is soliciting additional public comment on the measures implemented by the interim action. Comments must be received by NMFS by June 8, 2009. If you have questions about the 2009 regulations, please phone 978-281-9315.

Sincerely,



Patricia A. Kurkul,
Regional Administrator