



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

October 18, 2006

SMALL ENTITY COMPLIANCE GUIDE
MULTISPECIES FRAMEWORK ADJUSTMENT 42
SUMMARY OF NEW REGULATIONS

Dear Northeast (NE) Multispecies Permit Holder:

This letter is to inform you of regulations implementing Framework Adjustment (FW) 42 to the NE Multispecies Fishery Management Plan (FMP), and FW 3 to the Monkfish FMP. **These new regulations become effective on November 22, 2006.**

Amendment 13 to the FMP established a biennial adjustment process to ensure that the NE multispecies rebuilding program is maintained. Data from the August 2005 Groundfish Assessment Review Meeting (GARM II) indicated that the management measures in place were not achieving the Amendment 13 fishing mortality objectives for several NE multispecies stocks (Gulf of Maine (GOM) cod, Cape Cod (CC)/GOM yellowtail flounder, Georges Bank (GB) yellowtail flounder, GB winter flounder, Southern New England (SNE)/Mid-Atlantic (MA) yellowtail flounder, and white hake). FW 42/FW3 was developed by the New England Fishery Management Council (Council) to make changes to the Amendment 13 measures necessary to achieve the Amendment 13 rebuilding objectives. The emergency action implemented in May 2006 initiated certain measures to reduce fishing mortality while FW 42/FW 3 was being completed. FW 42/FW 3 replaces the emergency measures and will continue measures to reduce fishing mortality for the remainder of fishing year 2006, as well as for fishing years 2007 and 2008. Combined with the emergency action, FW 42/FW 3 measures should achieve the Amendment 13 fishing mortality objectives for all species during FY 2006.

A summary of the management measures implemented by FW 42/FW 3, and how they fit into existing Amendment 13 measures, follows. All management measures that were in effect prior to May 1, 2006, and not modified by this rule will remain in effect.

**VESSEL MONITORING SYSTEM (VMS) REQUIREMENT FOR ALL NE
MULTISPECIES DAY-AT-SEA (DAS) VESSELS**

All limited access NE multispecies DAS vessels using a NE multispecies DAS must be equipped with an approved VMS. A vessel owner with a limited access NE multispecies DAS permit who does not intend to and does not fish any NE multispecies DAS during the fishing year (including vessels used exclusively for leasing DAS to other vessels) may renew the vessel's limited access NE multispecies permit without having an approved VMS, but may not fish any of the vessel's NE multispecies DAS until such time that the vessel is equipped with an approved VMS. A vessel owner intending to use VMS for the first time must complete and submit the "Northeast Vessel Monitoring Program" certification form. Please see the separate letter regarding VMS requirements and instructions included in this package for more information.



A NE multispecies DAS vessel that calls into the DAS program through the Interactive Voice Response System (IVR), and begins its trip prior to the effective date of FW 42/FW 3, may continue to fish as of November 22, 2006, and may complete that trip without a VMS.

DAS ALLOCATION

FW 42/FW 3 does not change the Amendment 13 DAS measures and does not make further changes to the number of DAS allocated to vessels on May 1, 2006. NE multispecies DAS vessels will continue to be allocated Category A and B DAS based on their Amendment 13 DAS baseline allocation as follows: 55 percent Category A DAS and 45 percent Category B DAS. No changes to current DAS allocations are anticipated until May 2009.

DIFFERENTIAL DAS COUNTING

Beginning November 22, 2006, all NE multispecies Category A DAS used within two specific areas will be charged at a rate of 2 DAS for every 1 DAS used, as detailed further below. These differential DAS counting areas, or differential areas (DA), are the primary means to achieve the necessary mortality reductions for overfished NE multispecies stocks.

1. GOM DA

All Category A DAS used by a vessel issued a limited access NE multispecies DAS permit that has declared its intent to fish within the GOM DA (see Figure 1) will be charged at a rate of 2:1, with the exception of Day gillnet vessels, as described below. A vessel fishing inside and outside of the GOM DA on the same trip will be charged at the rate of 2:1 for the entire trip. Day gillnet vessels will be charged DAS at a rate of 2:1 for the actual hours used for any trip of less than 3 hr in duration, and for any trip of greater than 7.5 hr. For Day gillnet trips between 3 and 7.5 yr duration, a vessel will be charged 15 hr. A vessel fishing under the Regular B DAS Program within the GOM DA that ends its trip under a Regular B DAS is not subject to differential DAS counting. However, a vessel that started its fishing trip under a Regular B DAS and flips its DAS to a Category A DAS, will have its DAS counted at a rate of 2:1 for the entire trip.

Examples:

- A trawl vessel that declared into the GOM DA through VMS for a fishing trip in which the vessel fished 10 hr entirely within the GOM DA would be charged for 20 hr (10 hr x 2.0) of DAS use.
- A Trip gillnet vessel that declared its intent to fish in the GOM DA through VMS on a trip in which the vessel fished 5 hr inside the GOM DA and 5 hr outside of the GOM DA would be charged for 20 hr (10 hr x 2.0) of DAS use.
- A Day gillnet vessel that declared its intent to fish in the GOM Differential Area on a trip that lasts 7 hr would be charged 15 hr.
- A Day gillnet vessel that declared its intent to fish in the GOM Differential Area on a trip that lasts 8 hr would be charged 16 hr (8 hr x 2.0) of DAS use.

To fish in the GOM DA under a Category A DAS, a NE multispecies DAS vessel must declare into the GOM DA through VMS prior to leaving the dock, or prior to leaving the Eastern

U.S./Canada Area for a vessel that declared that it is fishing under the U.S./Canada Management Area regulations. A NE multispecies DAS vessel may not fish under a Category A DAS in the SNE DA unless it has declared into this area, or unless otherwise noted below. A vessel that does not declare into the GOM DA may transit the area, provided its fishing gear is properly stowed according to the regulations. A vessel that does not declare into the GOM DA may also be in the area when not transiting (e.g., due to bad weather), provided its fishing gear is properly stowed and provided the vessel notifies the National Marine Fisheries Service (NOAA Fisheries Service) through its VMS. Please see the “Differential DAS Area Layover” form in the separate letter regarding VMS requirements included in this package.

NOTE: As of November 22, 2006, all NE multispecies DAS vessels fishing in the GOM DA under a Category A DAS must have declared into this area through VMS prior to leaving the dock. Vessels that departed on a trip into the GOM DA prior to November 22, 2006, will be required to leave the area or end their trip.

Effect on Monkfish DAS

A vessel issued a limited access monkfish Category C or D permit that declares into the GOM DA under a monkfish DAS (and therefore accruing both monkfish and NE multispecies DAS) will have its NE multispecies DAS charged at a rate of 2:1, as described above, and its monkfish DAS charged at a rate of 1:1.

Effect on Trip Limits

For vessels that have declared into the GOM DA, all trip limits will apply based on the actual days spent fishing, and not on the basis of the number of DAS charged.

Example: A trawl vessel fishing in the GOM DA is subject to the GOM cod trip limit of 800 lb per DAS. On a trip into the GOM DA that lasts 48 hr, or 2 DAS, the vessel would be charged 96 hr (48 hr x 2.0), or 4 DAS, but would only be allowed to retain 1,600 lb of GOM cod (2 day’s worth) because the vessel only fished 2 DAS.

A vessel that fishes in both the GOM DA and SNE DA on the same trip is subject to the most restrictive regulations from either area for the entire trip.

Example: A vessel fishing in both the GOM DA and the SNE DA on the same trip would be charged differential DAS at a rate of 2:1 for the entire trip (the more restrictive differential DAS counting restriction from the GOM DA).

The GOM DA is defined by straight lines connecting the following points in the order stated:

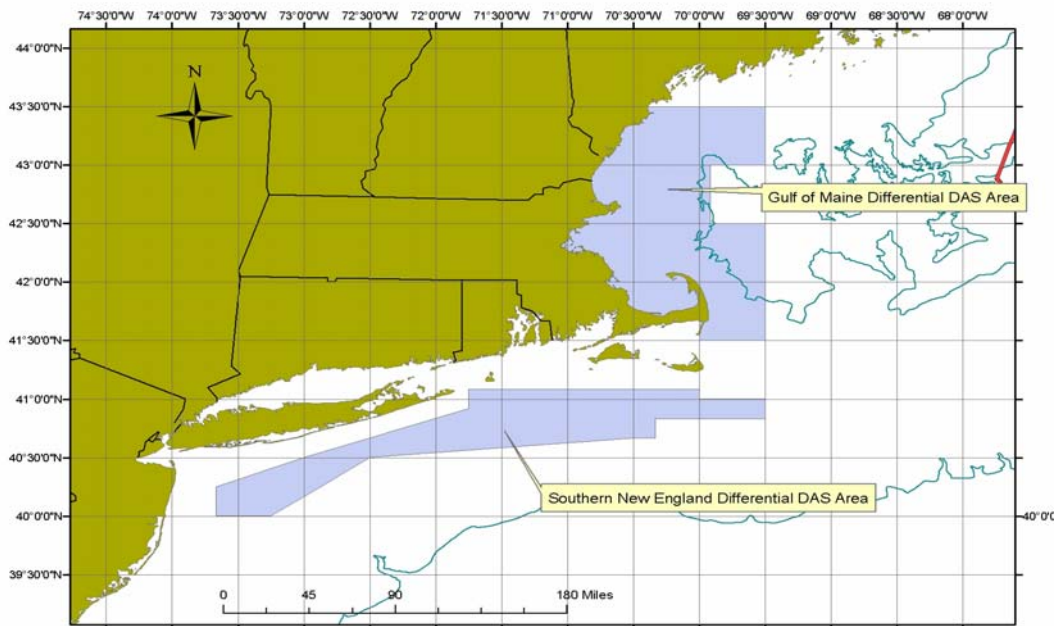
Point	N. lat.	W. long.
GMD1	43° 30'	Intersection with Maine Coastline
GMD2	43° 30'	69° 30'
GMD3	43° 00'	69° 30'
GMD4	43° 00'	69° 55' eastern boundary, WGOM Closure Area
GMD5	42° 30'	69° 55'
GMD6	42° 30'	69° 30'
GMD7	41° 30'	69° 30'

GMD8 41° 30' 70° 00'
 GMD9 North to intersection with Cape Cod, Massachusetts, coast and 70° 00' W. long.

The SNE DA is defined by straight lines connecting the following points in the order stated:

Point	N. lat.	W. long.
SNED1	41° 05'	71° 45'
SNED2	41° 05'	70° 00'
SNED3	41° 00'	70° 00'
SNED4	41° 00'	69° 30'
SNED5	40° 50'	69° 30'
SNED6	40° 50'	70° 20'
SNED7	40° 40'	70° 20'
SNED8	40° 40'	70° 30'
SNED9	40° 30'	72° 30'
SNED10	40° 10'	73° 00'
SNED11	40° 00'	73° 15'
SNED12	40° 00'	73° 40'
SNED13	40° 15'	73° 40'
SNED14	40° 30'	73° 00'
SNED15	40° 55'	71° 45'
SNED16	41° 05'	71° 45'

Figure 1. GOM DA and SNE DA



2. SNE DA

All Category A DAS used by a vessel issued a limited access NE multispecies DAS permit that declared into the SNE DA (see Figure 1) will be charged at a rate of 2:1, with the exception of Day gillnet vessels, as described below. In contrast to the GOM DA, the vessel will be charged at the differential DAS rate for only that portion of the trip spent in the SNE DA, as determined from VMS positional data. The time spent outside this area on a fishing trip would be charged at the rate of 1:1.

A Day gillnet vessel that declares into the SNE DA will be charged according to the following formula for the time fished in this area: For hours accrued in the area less than 3 hr or greater than 7.5 hr, vessels will be charged at a rate of 2:1; for hours accrued in the area between 3 and 7.5 hr, vessels will be charged 15 hr. For trips where a Day gillnet vessel declares into the SNE DA, the application of the DAS accrual formula just described will not supersede the DAS accounting formula that applies to all NE multispecies Day gillnet vessels (i.e., the 3-15 rule). In other words, the net DAS charge for a Day gillnet vessel for a trip declared into the SNE DA may not be less than the DAS that would accrue on the same length trip by a Day gillnet vessel not declared into the SNE DA (see the third example below). A vessel fishing under the Regular B DAS Program within the SNE DA that ends its trip under a Regular B DAS is not subject to differential DAS counting. However, a vessel that started its fishing trip under a Regular B DAS and flips its DAS to a Category A DAS, will have its DAS counted at a rate of 2:1 for the time spent fishing within the SNE DA.

Examples:

- For a trawl vessel that declared into the SNE DA through its VMS unit and spent 4 hr in the SNE DA on a trip lasting a total of 12 hr, the total DAS for that trip would equal 16 hr (8 hr of actual time outside of the SNE DA and 8 hr (4 hr x 2.0) of differential DAS time).
- A Day gillnet vessel that declared into the SNE DA and fished in the SNE DA for 5 hr and outside of the SNE DA for 3 hr would be charged 18 hr of DAS use (15 hr plus 3 hr fished outside of the SNE DA).
- A Day gillnet vessel that declared into the SNE DA, and that fished in the SNE DA for 2.5 hr and outside the area for 3 hr will be charged 15 hr. This is because the DAS charge based on the formula described above would result in a DAS charge that is less than the DAS charge applicable to all Day gillnet vessels. Using the formula described above, the vessel would be charged 5 hr for the time fished inside the area (2.5 hr x 2) and 3 hr for the time spent outside the area, for a total of 8 hr. Instead the vessel is charged 15 hr total, because the net DAS charge for a Day gillnet vessel for a trip declared into the SNE DA may not be less than the DAS that would accrue on the same length trip by a Day gillnet vessel not declared into the SNE DA according to the 3 hr to 15 hr rule).

To fish in the SNE DA under a Category A DAS, a NE multispecies DAS vessel must declare into the SNE DA through VMS prior to leaving the dock, or prior to leaving the Eastern U.S./Canada Area for a vessel that declared that it is fishing under the U.S./Canada Management Area regulations. A NE multispecies DAS vessel may not fish under a Category A DAS in the

SNE DA unless it has declared into this area, or unless otherwise noted below. A vessel that does not declare into the SNE DA may transit the area, provided its fishing gear is properly stowed according to the regulations. A vessel that does not declare into the SNE DA may also be in the area when not transiting (e.g., due to bad weather), provided its fishing gear is properly stowed and provided the vessel immediately notifies the NOAA Fisheries Service through its VMS. Please see the “Differential DAS Area Layover” form contained in the separate letter regarding VMS requirements and instructions included in this package.

NOTE: As of November 22, 2006, all NE multispecies DAS vessels fishing in the SNE DA under a Category A DAS must have declared into this area through VMS prior to leaving the dock. Vessels that had departed on a trip into the SNE DA prior to November 22, 2006, will be required to leave the area or end their trip.

A vessel that fishes in both the GOM DA and SNE DA on the same trip will be subject to the more restrictive regulations from either area for the entire trip.

Example: A vessel fishing in both the GOM DA and the SNE DA on the same trip will be charged differential DAS at a rate of 2:1 for the entire trip (the more restrictive differential DAS counting restriction from the GOM DA).

Effect on Monkfish DAS

A vessel issued a limited access monkfish Category C or D permit that declares into the SNE DA under a monkfish DAS (and therefore accruing both monkfish and NE multispecies DAS) will have its NE multispecies DAS charged at a rate of 2:1, as described above, and its monkfish DAS charged at a rate of 1:1.

Effect on Trip Limits

For vessels that have declared into the SNE DA, all trip limits will apply based on the actual days spent fishing, and not on the basis of the number of DAS charged.

Example: A trawl vessel fishing in the SNE DA is subject to the SNE/MA yellowtail flounder cod trip limit of 250 lb per DAS. On a trip into the SNE DA that lasts 48 hr, or 2 DAS, the vessel would be charged 96 hr (48 hr x 2.0), or 4 DAS, but would only be allowed to retain 500 lb of SNE/MA yellowtail flounder (2 day’s worth) because the vessel only fished 2 DAS.

MONKFISH-ONLY DAS

Monkfish Category C and D vessels will continue to be allowed to use monkfish-only DAS based upon their current allocation of monkfish and NE multispecies DAS, but FW 42/FW 3, in contrast to the current emergency rule, does not expand this number to account for the effects of differential DAS measures on monkfish DAS. For example, if a Category C monkfish vessel allocated 40 monkfish DAS has a current NE multispecies DAS allocation of 15 DAS, the maximum number of monkfish-only DAS that the vessel would be able to fish would be 25 (40 monkfish DAS – 15 NE multispecies DAS).

Under the recent emergency regulations, every NE multispecies Category A DAS used outside of the U.S./Canada Management Area was charged at a rate of 1.4:1. A monkfish Category C or

D vessel was allocated an additional 0.4 monkfish-only DAS for every 1 NE multispecies DAS used outside of the U.S./Canada Management Area to compensate for the differential DAS counting on NE multispecies DAS. Under FW 42/FW 3, any monkfish Category C and D vessel that accrued monkfish-only DAS under the emergency regulations may continue to use these monkfish-only DAS.

Example: A monkfish Category C vessel that fished 10 of its NE multispecies DAS outside of the U.S./Canada Management Area was charged 14 NE multispecies DAS (10 DAS x 1.4) and was allocated an extra 4 monkfish-only DAS (0.4 x 10 DAS used). This vessel may continue to use the additional 4 monkfish-only DAS after FW 42/FW 3 becomes effective on November 22, 2006.

COMMERCIAL TRIP LIMITS AND RELATED RULES

Beginning November 22, 2006, all NE multispecies vessels will be subject to the following commercial trip limits when fishing under a Category A DAS, unless otherwise restricted. These trip limits are summarized in Table 1.

GOM Cod

A vessel fishing under a NE multispecies DAS may possess up to 800 lb per DAS, and up to 4,000 lb per trip, of GOM cod. Vessels that begin a trip prior to November 22, 2006, and end the trip after November 22, 2006, will be subject to the applicable daily trip limit for each day fished (i.e., 600 lb per DAS prior to November 22, 2006, and 800 lb per DAS as of November 22, 2006). The GOM cod possession limit for vessels operating under the limited access NE multispecies Handgear A permit regulations will revert to 300 lb per trip. The GOM cod trip limit for vessels operating under the open access Handgear B provisions will be maintained at 75 lb per trip.

GB Cod

The GB cod trip limit (1,000 lb per DAS, up to 10,000 lb per trip) is not changed from current regulations. Please note that the requirement to obtain a GB Cod Trip Limit Exemption Letter of Authorization (LOA) from the Regional Administrator when fishing outside of the GOM Regulated Mesh Area (RMA) is replaced with a requirement for a vessel to declare through VMS that it is fishing outside of the GOM RMA. With the exception of vessels declared into the U.S./Canada Management Area, to fish south of the GOM RMA and be exempt from the GOM cod trip limit, a NE multispecies DAS vessel must declare that it is fishing south of the GOM RMA through the VMS prior to leaving the dock, in accordance with instructions provided by the Regional Administrator (Please see the "Gulf of Maine Cod Trip Limit Exemption" form in the separate letter regarding VMS requirements included in this package). As under current regulations, a vessel that is exempt from the GOM cod trip limit may not fish in the GOM RMA for the duration of its trip. Such a vessel may transit the GOM RMA, provided that its gear is properly stowed while in the GOM RMA. A vessel that has not declared through VMS that it is fishing south of the GOM RMA, would be subject to the most restrictive applicable cod trip limit for the entire trip, regardless of area fished.

Eastern GB Cod (in the Eastern U.S./Canada Area)

A vessel fishing under a NE multispecies DAS in the Eastern U.S./Canada Area may possess up to 500 lb of cod per DAS, or any part of a DAS, and up to 5,000 lb per trip. The restriction that a

vessel fishing in the Eastern U.S./Canada Area may not possess cod in excess of 5 percent of the total fish on board is eliminated.

GB Winter Flounder

A NE multispecies vessel fishing in the U.S./Canada Management Area may possess up to 5,000 lb of GB winter flounder per trip, unless further restricted due to participation in a special management program.

GB Yellowtail Flounder

A NE multispecies vessel fishing in the U.S./Canada Management Area may possess up to 10,000 lb of GB yellowtail flounder per trip, unless further restricted due to participation in a special management program. The Regional Administrator may make adjustments to the GB yellowtail flounder trip limit at any time during the fishing year in order to prevent exceeding the total allowable catch (TAC) or to facilitate harvesting the GB yellowtail flounder TAC. The Regional Administrator will consider the guidance provided by the New England Fishery Management Council and published in the FW 42/FW 3 final rule. Any adjustments will be implemented through notice in the Federal Register and you will be notified by a permit holder letter.

White Hake

A NE multispecies vessel may land up to 1,000 lb of white hake per DAS, or any part of a DAS, up to 10,000 lb per trip.

CC/GOM and SNE/ MA Yellowtail Flounder

A NE multispecies vessel may land up to 250 lb of CC/GOM and/or SNE/MA yellowtail flounder per DAS, or any part of a DAS, up to 1,000 lb per trip. **Note:** Vessels will no longer be required to obtain a yellowtail flounder landing authorization in order to land yellowtail flounder from either the CC/GOM or SNE/MA stocks of yellowtail flounder. Vessels that begin a trip prior to November 22, 2006, and end the trip after November 22, 2006, will be subject to the new trip limit.

Haddock

FW 42/FW 3 eliminates the haddock trip limits from the regulations. The Regional Administrator will retain the authority to adjust the haddock trip limit in order to prevent exceeding the TAC and to facilitate harvest of the TAC.

In addition, FW 42/ FW 3 removes the requirement that the Regional Administrator must implement an Eastern GB haddock trip limit of 1,500 lb/day up to 15,000 lb per trip for the Eastern U.S./Canada Area, when it is projected that 70 percent of the Eastern GB haddock TAC will be reached.

Modification of Regional Administrator Authority to Make Within-Season Changes to U.S./Canada Management Area Rules

FW 42/ FW 3 expands the Regional Administrator's authority to adjust management measures in the U.S./Canada Management Area at any time during the fishing year, as well as prior to the start of the fishing year for the subsequent fishing year, in order to more effectively prevent

overharvesting or to facilitate harvesting of the hard TACs for Eastern GB cod, Eastern GB haddock, and GB yellowtail flounder.

Table 1: Summary of Regulated NE multispecies Landing 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 (Eastern U.S./Canada Area)
		1,000 lb/trip (Eastern U.S./Canada Haddock SAP)
		1,000 lb/DAS, up to 10,000 lb/trip (outside of the Eastern U.S./Canada Area, south of GOM RMA if 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

COD RUNNING CLOCK PROVISION

FW 42/FW 3 revises the current cod running-clock rules to ensure that DAS are appropriately charged for vessels landing an additional DAS worth of cod. Under this rule, a vessel declared into and fishing in either the GOM or the SNE DA is not required to run its clock to account for an extra day's worth of cod catch.

For a vessel fishing its entire trip outside of either the GOM or the SNE DA, to land an extra day's worth of cod, the vessel operator must submit the VMS running clock form (see the separate letter regarding VMS requirements) prior to crossing the VMS demarcation line on its return to port. The vessel will be charged up to an additional 24 hr of DAS to fully account for the amount of cod landed.

Example: A vessel that fishes an entire 25-hr trip in the GOM, but outside of the GOM DA, can land up to 1,600 lb of GOM cod (800 lb per DAS x 2 DAS), provided the vessel submits the “Cod Running Clock” form via VMS prior to crossing the VMS demarcation line on its return to port. The vessel would be charged for 48 hr of DAS use.

STANDARDIZED REPORTING REQUIREMENTS FOR SPECIAL MANAGEMENT PROGRAMS

Since Amendment 13 was implemented in 2004, several special management programs have been implemented in the fishery with their own unique reporting requirements. FW 42/FW 3 modifies and standardizes the reporting requirements for these programs in order to reduce confusion and improve the reporting of catch and bycatch. These standardized reporting requirements apply to all vessels participating in the following special management programs: The U.S./Canada Management Area; Eastern U.S./Canada Haddock Special Access Program (SAP); Closed Area I Hook Gear Haddock SAP; Closed Area II Yellowtail Flounder SAP; and the Regular B DAS Program.

The standardized reporting requirements for the special management programs implemented by FW 42/FW 3 are as follows:

- Observer Program Notification: For all special management programs, a vessel is required to inform the Observer Program of its intent to participate in a special management program by calling **(508) 990-9057**.
- Daily VMS Catch Reports: For all special management programs, the species that must be reported daily (catch and discards) are haddock, cod, yellowtail flounder, winter flounder, witch flounder, white hake, and American plaice (see the “Multispecies Catch Report” form in the separate letter regarding VMS requirements included in this package). The vessel operator must continue to report daily through VMS for the entire duration of the trip, even if the vessel exits the special management program.
- Date of Catch: On the VMS Multispecies Catch Report, the vessel operator must explicitly state on which date the fish were caught. As under current regulations, the vessel may report catch for a particular day of fishing at any time of the day on which it was caught, up until 0900 hr the following day.
- Vessel Trip Report (VTR) Serial Number: On the VMS Multispecies Catch Report, the vessel operator must report the serial number from the first page of the VTR (logbook) on every VMS multispecies catch report for the entire duration of the trip.

Vessels that depart on a trip prior to the effective date of the new reporting rules, November 22, 2006, may report using the pre-November 22, 2006, version of the VMS software and will be subject to the previous reporting requirements for the entire trip.

OTHER REQUIREMENTS FOR SPECIAL MANAGEMENT PROGRAMS

Vessels participating in the special management programs must also comply with the following provisions:

- Prohibition on Discarding: While participating in either any of the SAPs or the Regular B DAS Program, a vessel is prohibited from discarding legal-sized regulated NE

multispecies (American plaice, Atlantic cod, haddock, pollock, redfish, white hake, winter flounder, windowpane flounder, witch flounder, yellowtail flounder, Atlantic halibut, and ocean pout) while fishing under a Category B DAS.

- **Requirement to Exit:** If a vessel participating in a SAP or the Regular B DAS Program exceeds *any* of the NE multispecies trip limits (under either a Category B or Category A DAS), it must exit the respective special management program.
- **DAS Flipping:** With the exception of a vessel participating in the Closed Area I Hook Gear Haddock SAP, a vessel fishing under a Category B DAS in a special management program is required to flip from a Category B to a Category A DAS (through VMS) as soon as any applicable NE multispecies trip limit is exceeded. This is a change from past regulations that only required flipping to occur prior to crossing the VMS demarcation line on a vessel's return to port.

U.S./CANADA AREA VMS DECLARATIONS

Any NE multispecies DAS vessel that fishes within the U.S./Canada Management Area under a NE multispecies DAS must declare into one of the sub-areas of the U.S./Canada Management Area (see below) through VMS prior to leaving the dock (a vessel may fish in other sub-areas on the same trip, as described in the next section). Because of the relatively small GB yellowtail flounder TAC for FY 2006, the Closed Area II Yellowtail Flounder SAP will remain closed for FY 2006. Following are the U.S./Canada Management Area sub-areas available in FY 2006:

<u>Sub-Area</u>	<u>Description</u>
2	Eastern U.S./Canada Area Outside of Closed Area II
4	Western U.S./Canada Area Only
4+Open	Western U.S./Canada Area and outside of the U.S./Canada Management Area on the same trip
5	Eastern U.S./Canada Area Haddock SAP
6	Eastern U.S./Canada Area and the Eastern U.S./Canada Area Haddock SAP

Because of the numerous codes and rules associated with fishing in the U.S./Canada Management Areas, a vessel must carefully select the appropriate activity/program code, area, DAS type, and gear type from among many options. Please see the separate letter regarding VMS requirements and instructions included in this package for more information. This additional letter describes various fishing scenarios and include how DAS will be charged under each scenario. If necessary, call NOAA Fisheries Service at (978) 281-9315 to request assistance with your VMS codes.

FLEXIBILITY FOR TRIPS TO THE EASTERN U.S./CANADA MANAGEMENT AREA

Under FW 42/FW 3, a vessel may elect to fish both inside and outside of the Eastern U.S./Canada Area on the same trip. Vessels electing this option are required to declare their intent to fish inside and outside of the Eastern U.S./Canada Area on the same trip through VMS (see the separate letter regarding VMS requirements in this package) either prior to leaving the dock, or prior to leaving the Eastern U.S./Canada Area, and must comply with the more restrictive landing limits and DAS charges associated with the areas fished for the entire trip. A

vessel that fishes in the Eastern U.S./Canada Area, and then declares its intent to fish outside the Eastern U.S./Canada Area on the same trip is said to be “**flexing**.” Such a vessel may, prior to departing the Eastern U.S./Canada Area, also choose to fish in either the GOM or SNE DAs by making the appropriate VMS declaration and will be subject to differential DAS regulations for the area it is flexing into. The potential flexing scenarios in the VMS declaration screen are as follows: FLEX OUT, FLEX WEST, FLEX GOM DA, and FLEX SNE DA. All trips into the Eastern U.S./Canada Area that subsequently Flex (i.e., depart the Eastern U.S./Canada Area to fish elsewhere) must be under a Category A DAS prior to exiting the Eastern U.S./Canada Area, with the exception of a vessel declared into the Regular B DAS Program (see examples below).

If a vessel possesses yellowtail flounder in excess of the trip limits for CC/GOM and SNE/MA yellowtail flounder (see Table 1 above), it may not fish outside of the U.S./Canada Management Area (i.e., in the CC/GOM or SNE/MA yellowtail flounder stock areas) on the same trip. In addition, a vessel electing to fish inside and outside of the Eastern U.S./Canada Area on the same trip will be subject to the following conditions:

- With the exception of vessels participating in the Regular B DAS Program and fishing under a Regular B DAS, DAS will be charged for the entire trip and the vessel will not receive any steaming time credit to or from the Eastern U.S./Canada Area;
- All cod and haddock caught on the entire trip will be applied against the Eastern U.S./Canada Area TACs, while all yellowtail flounder will be applied to the overall U.S./Canada Area TAC for this species; and
- The vessel must comply with reporting requirements for the Eastern U.S./Canada Area for the entire trip;

Examples of “Flex Out” and “Flex West” Scenarios:

- If a vessel declares through VMS that it will be fishing within the Eastern U.S./Canada Area and outside of the U.S./Canada Management Area on the same trip, it must select the “**Flex Out**” VMS option and abide by all applicable rules regarding DAS use (see the separate letter regarding VMS requirements and instructions included in this package).
- If a vessel declares through VMS prior to leaving the dock that it intends to fish in the Eastern U.S./Canada Area, and then catches 1,100 lb of GB yellowtail flounder in this area, the vessel operator would be prohibited from fishing in the CC/GOM or SNE/MA yellowtail flounder areas on the same trip, because the vessel has exceeded the SNE/MA and CC/GOM yellowtail flounder possession limits of 250 lb per DAS up to 1,000 lb per trip. However, the vessel could continue to fish within the Western U.S./Canada Area for the remainder of the trip by selecting the “**Flex West**” VMS option and abide by all applicable rules regarding DAS use (see the separate letter regarding VMS requirements and instructions included in this package).

Examples of Flex Trip Scenarios When Fishing Under a Category B DAS:

- If a vessel declares through VMS that it will be fishing under a Category B DAS in the Eastern U.S./Canada Haddock SAP, but later wants to fish in the GOM DA on the same trip, it must first flip its DAS to Category A DAS and then select the “**Flex GOM DA**” option to exit the SAP and the Eastern U.S./Canada Area and fish in the

GOM DA. The vessel must abide by all of the applicable rules regarding DAS use (see the separate letter regarding VMS requirements and instructions included in this package).

- If a vessel declares through VMS that it will be fishing in the Eastern U.S./Canada Area on a Regular B DAS and under the Regular B DAS Program, but later wants to fish in either the Western U.S./Canada Area or outside of the U.S./Canada Management Area, it may select the “**Flex West**” or the “**Flex Out**” option, respectively, and may continue to fish under a Regular B DAS once it leaves the Eastern U.S./Canada Area, provided it is not required to “flip” its DAS to a Category A DAS due to exceeding the Regular B DAS Program trip limits.

REVISED REPORTING RULES FOR “4 + OPEN” TRIPS

A vessel fishing both inside and outside of the Western U.S./Canada Area on the same trip by selecting Area “4+Open” on the VMS multispecies declaration screen is no longer required to report the catch and discard of yellowtail flounder every time the vessel crosses into and out of the Western U.S./Canada Area. NOAA Fisheries Service (NMFS) will rely principally on statistical area reported on daily VMS catch reports to determine how to attribute catch to the appropriate yellowtail flounder stocks.

HADDOCK SEPARATOR TRAWL PERFORMANCE INCENTIVES

In order to provide additional incentives for vessels to properly use a haddock separator trawl, the following possession limits per trip will apply for the programs and circumstances in which a haddock separator trawl is required: 500 lb of flatfish (all species, combined), 500 lb of monkfish (whole weight), and 500 lb of skates (whole weight). In addition, possession of lobsters is prohibited. **Note:** These requirements have been incorporated into Tables 3 and 7, which include the possession limits for the Regular B DAS Program and the Eastern U.S./Canada Haddock SAP, respectively. If the Regional Administrator requires the use of the haddock separator trawl for the U.S./Canada Management Area through notice in the Federal Register, this requirement will apply in that circumstance and you will be notified through a future permit holder letter.

REGULAR B DAS PROGRAM

The Regular B DAS Program is renewed in order to continue opportunities for NE multispecies limited access DAS permit holders to use Regular B DAS outside of a SAP to target stocks that can withstand additional fishing effort. However, because of the need to reduce fishing mortality on cod and other stocks of concern, there are modifications to the program as originally implemented. Key provisions of the Regular B DAS Program that are different from the original Regular B DAS Program, or different from the Regular B DAS Program as implemented by the Emergency Action on May 1, 2006, are described in further detail below. All other requirements of the Regular B DAS Program remain the same as those originally implemented in FW 40A in November 2004. For details regarding the other Regular B DAS Program measures, refer to the FW 40A permit holder letter sent to you on November 17, 2004. This letter is also available on the internet at the following address: <http://www.nero.noaa.gov/nero/nr/nr04.htm>.

Monkfish Category C, D, and F Vessels

Monkfish Category C, D, and F vessels may no longer fish in the Regular B DAS Program under a monkfish DAS on the same trip. Such vessels may participate in this program under only a NE multispecies Regular B DAS, but must abide by the monkfish Incidental Catch limits (see Table 3).

Area Restrictions

Under FW 42/FW 3, vessels participating in the Regular B DAS Program are not limited to fishing within the U.S./Canada Management Area, as required under the emergency regulations, and may fish either in the U.S./Canada Management Area or outside of this area. Participating vessels may not fish in the Regular B DAS Program and in a SAP on the same trip. Vessels fishing in the Regular B DAS Program prior to the effective date of FW 42/FW 3, November 22, 2006, must return to port to change their VMS area declarations in order to fish outside of the U.S./Canada Management Area under the Regular B DAS Program.

Gear Requirements

Trawl vessels 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.

Quarterly DAS Limit

To limit the potential biological impacts of the Regular B DAS Program, the maximum number of Regular B DAS that may be used in this program during a particular quarter is as follows:

- Quarter 1 (May – July): 500 DAS
- Quarter 2 (August – October): 1,000 DAS
- Quarter 3 (November – January): 1,000 DAS
- Quarter 4 (February – April): 1,000 DAS

Requirement to Flip from a Regular B DAS to a Category A DAS

Under FW 42/FW 3, if a vessel harvests and brings on board legal-sized regulated NE multispecies or monkfish in excess of the landing limits specified in Tables 2 and 3, the vessel operator must retain the excess catch and notify NOAA Fisheries Service via VMS immediately that it is changing its DAS category from a Regular B DAS to a Category A DAS (“DAS flip”). The landing limits are applied on the basis of the expected trip length.

Example: A vessel that declared into the Regular B DAS Program and that catches 300 lb of cod on the first day of a 2-day trip would be required to flip immediately to a Category A DAS on the first day (for 2 days of fishing under the Regular B DAS Program, the vessel is only allowed 2 days’ worth of cod, or 200 lb).

Once a trawl vessel flips from a Regular B DAS to a Category A DAS, it is no longer restricted to fishing with a haddock separator trawl, but may use other legal fishing gear (unless the U.S./Canada Management Area rules require the use of the haddock separator trawl). In addition, once the vessel flips to a Category A DAS, the vessel must comply with the landing limits for Category A DAS (see Table 1) and may discard fish in excess of the landing limits.

Minimum Category A DAS

For a vessel fishing under the Regular B DAS Program, the number of Regular B DAS that can be used on a trip cannot exceed the number of Category A DAS that the vessel has at the start of the trip after factoring in the differential DAS counting. Therefore, if a vessel is fishing in the GOM DA or the SNE DA, the number of Regular B DAS that can be used on a trip cannot exceed the number of Category A DAS that the vessel has at the start of the trip divided by 2. The reason for this requirement is that the vessel may be required to flip from a Category B to a Category A DAS due to catching greater than the trip limit for any species, and therefore, would accrue Category A DAS at the rate of 2:1.

Example: If a vessel plans a trip under the Regular B DAS Program into the GOM DA and has 10 Category A DAS available at the start of the trip, the maximum number of Regular B DAS that the vessel may fish under the Regular B Program is 5.

Possession/Landing Limits: Vessels fishing on a Regular B DAS in the Regular B DAS Program are subject to the following possession/landing limits (see Tables 2 and 3):

- The landing limit for GB cod and white hake is 100 lb per DAS, up to 1,000 lb per trip;
- For vessels fishing with trawl gear, possession of lobsters is prohibited and possession of flounders (all species, combined), monkfish (whole weight), and skates is limited to 500 lb per trip each;
- The landing limits for all other NE multispecies stocks (i.e., those not listed in Table 2) are the same as under the current regulations (see Table 1);
- The current monkfish Incidental Catch limit will apply on vessels issued a limited access monkfish Category C, D, E, or F permit and fishing on a Regular B DAS under this program with gear other than trawl gear, depending on the area fished (in the Northern Fishery Management Area (NFMA), that limit is 400 lb tail weight per DAS, or 50 percent of the total weight of fish on board, whichever is less; in the Southern Fishery Management Area (SFMA), that limit is 50 lb tail weight per DAS) (see Table 3).

Table 2: 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
GB cod			1,000 lb/DAS, up to 10,000 lb/trip (when exempt from the GOM cod trip limit)
			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		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.

Table 3: 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	300 lb/DAS	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), whichever is less	300 lb/DAS	50 lb/DAS
E	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), whichever is less	50 lb/DAS	

No Discarding Provision

Under previous actions, vessels participating in the Regular B DAS Program and fishing under a Regular B DAS are prohibited from discarding legal-sized regulated species.* Under FW 42/FW 4, vessels are also prohibited from discarding monkfish. This prohibition is not applicable when mandatory retention would conflict with a prohibition on the retention of such species. An example of such a conflict is, if the GB yellowtail flounder TAC in the U.S./Canada Management Area is caught, a prohibition on the possession of yellowtail flounder would be implemented. If this occurs, discarding of yellowtail flounder in the Regular B DAS Program would be permitted. If a vessel exceeds the landing limit for a NE multispecies stock of concern or monkfish, the DAS must be “flipped” to a Category A DAS and the vessel must immediately notify NOAA Fisheries Service through VMS (see previous discussion). Once the DAS is “flipped,” the vessel must comply with the landing limits for Category A DAS (see Table 1) and may discard fish in excess of the landing limits.

*Regulated species refers to the following NE multispecies species:

- American plaice
- Atlantic cod
- Haddock
- Pollock
- Redfish
- White hake
- Winter flounder
- Windowpane flounder
- Witch flounder
- Yellowtail flounder

Example: A vessel begins a planned 12-hr trip under the Regular B DAS Program. The vessel catches 1,200 lb of legal-sized GB cod in one tow. All legal-sized GB cod must be retained while fishing on a Regular B DAS. Since the vessel will only be underway for 12 hr, the vessel “flips” to a Category A DAS. Under this scenario, it must discard 200 lb of GB cod to comply with the Category A DAS landing limit of 1,000 lb per DAS. Alternatively, the vessel could remain at sea longer to account for the cod overage.

Quarterly Incidental TACs for Stocks of Concern: In order to limit the potential impact on fishing mortality that the Regular B DAS Program may have on NE multispecies stocks of concern, a quarterly Incidental TAC is set for each NE multispecies stock of concern for the Regular B DAS Program, as summarized in Table 4:

Table 4. 2006 Incidental Catch TACs (mt, live weight) by Quarter for NE multispecies Stocks of Concern.

Species	Regular B DAS Program							
	FY 2006		FY 2007		FY 2008		FY 2009	
	Quarter 1	Quarters 2 - 4	Quarter 1	Quarters 2 - 4	Quarter 1	Quarters 2 - 4	Quarter 1	Quarters 2 - 4
GB cod*	8.0	17.8	-	-	-	-	-	-
GOM cod	6.5	14.5	12.9	28.7	13.5	30.1	14.0	31.2
GOM/CC yellowtail flounder	0.8	1.9	1.4	3.1	1.8	4.1	0.8	1.8
American plaice	23.8	53.2	26.7	59.5	33.3	74.3	23.5	52.4
White hake	5.3	11.9	4.4	9.7	3.6	7.9	1.1	2.5
Witch flounder	35.8	79.9	33.0	73.6	28.2	62.8	23.1	51.6
GB yellowtail flounder*	2.7	6.0	-	-	-	-	-	-
GB winter flounder	1.85	4.1	2.1	4.6	2.2	5.2	2.5	5.7
SNE yellowtail flounder	0.2	0.4	0.3	0.6	0.4	0.9	0.4	0.8
SNE winter flounder	3.2	7.2	3.9	8.7	4.7	10.4	4.3	9.6

***Incidental Catch TACs for GB cod and GB yellowtail flounder for FYs 2007-2009 will be determined with the annual setting of TACs in the U.S./Canada Management Area.**

Prohibition of the Use of Regular B DAS: Under previous actions, if the quarterly Incidental Catch TAC for any of the stocks of concern listed in Table 4 is caught (except white hake), the use of Regular B DAS in the Regular B DAS Program will be prohibited in the stock area associated with the Incidental Catch TAC for the remainder of that quarter. FW 42/FW 3 regulations specify that, in the case of CC/GOM and SNE/MA yellowtail flounder, only a portion of the full stock areas where the stock is predominantly caught will be closed to the use of Regular B DAS, in order to prevent closure of the whole stock area and allow fishing to continue in areas where little or no yellowtail is likely to be caught. When the white hake Incidental Catch TAC is caught, the possession of white hake when fishing under the Regular B DAS Program will be prohibited in lieu of closing the stock area.

Information on the harvest of stocks of concern, as well as the number of Regular B DAS used in each quarter, will be available on the internet at the following address:

<http://www.nero.noaa.gov/ro/fso/f40a.htm>.

DAS LEASING PROGRAM

The DAS Leasing Program, as originally adopted under Amendment 13, is continued indefinitely. Please refer to the Amendment 13 permit holder letter for more information on the requirements for this program. This letter is available on the internet at the following address:

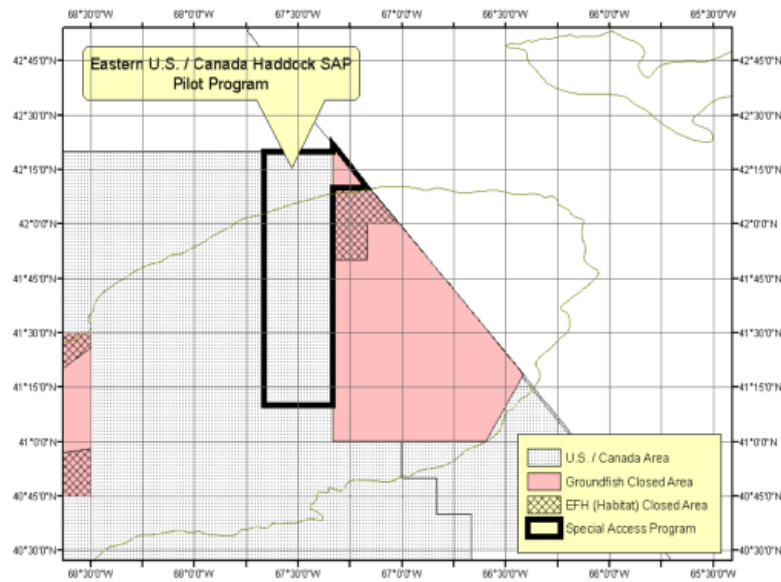
<http://www.nero.noaa.gov/nero/nr/nr04.htm>.

EASTERN U.S./CANADA HADDOCK SAP

FW 42/FW 3 renews the Eastern U.S./Canada Haddock SAP indefinitely, with the following changes summarized below. This SAP allows vessels to target haddock in the Eastern

U.S./Canada Area, including the northern tip of Closed Area II (see Figure 2 for your reference), using a haddock separator trawl. All other provisions of this SAP, including the DAS restrictions, remain the same.

Figure 2. The Eastern U.S./Canada Haddock SAP.



Start Date: The start date of the Eastern U.S./Canada Haddock SAP is delayed until August 1. The season for this SAP is now August 1 through December 31, unless otherwise notified.

Incidental Catch TACs: FW 42/FW 3 establishes two new Incidental Catch TACs for GB winter flounder and GB yellowtail flounder for this SAP. These two new TACs are in addition to the Incidental Catch TAC for GB cod established under FW 40A (see Table 5). Any cod, winter flounder, or yellowtail flounder caught under a Category B (Regular or Reserve) DAS will count toward these Incidental Catch TACs. Once any one of these TACs are caught, the use of Category B DAS (Regular or Reserve) in this SAP will be prohibited.

Table 5: 2006 Eastern U.S./Canada Haddock SAP Incidental Catch TACs (mt, live weight).

Species	2006 Incidental Catch TAC
GB cod	19.6
GB Yellowtail Flounder	20.7
GB Winter Flounder	14.2

Information on the rate of harvest of cod, yellowtail flounder, and winter flounder from this SAP will be available on the internet at the following address:

<http://www.nero.noaa.gov>.

Discard Prohibition and Possession Limits: In addition to legal-sized cod, a vessel fishing in the Eastern U.S./Canada Haddock SAP under a Category B DAS (Regular or Reserve B DAS) may

not discard legal-sized winter flounder or yellowtail flounder. Participating vessels are prohibited from possessing lobsters and are subject to the NE multispecies landing limits specified in Table 6 below.

Table 6: Landing Limits for Limited Access NE Multispecies Vessels Participating in the Eastern U.S./Canada Haddock SAP.

Species	Category B DAS Landing Limits	Category A DAS Landing Limits
GB Cod	1,000 lb/trip	
GB Winter Flounder	100 lb/DAS, up to 500 lb/trip of all flounder species combined	500 lb/trip of all flatfish species combined
GB Yellowtail Flounder		
Other Flounder Species	500 lb/trip of all flatfish species combined	

***Vessels must also abide by the possession limits of all other species, as listed above in Table 1.**

Requirement to Flip from a Category B DAS to a Category A DAS: If a vessel fishing in the Eastern U.S./Canada Haddock SAP under a Category B DAS harvests and brings on board more than the allowable limits of legal-sized cod, winter flounder, or yellowtail flounder specified in Table 6, the vessel operator must immediately notify NOAA Fisheries Service via VMS that it is flipping its DAS category from Category B DAS (Regular or Reserve) to Category A DAS. If a vessel that has declared into the Eastern U.S./Canada Haddock SAP flips from a Category B DAS to a Category A DAS, it will be charged Category A DAS for the entire trip (or at the rate of 2:1, if also fishing in one of the DAS) on the same trip. Once the vessel is fishing under a Category A DAS, the prohibition on discarding legal-sized cod, winter flounder, or yellowtail flounder no longer applies.

Minimum Category A DAS Requirement: The number of Category B DAS that will be allowed to be used on a trip in the Eastern U.S./Canada Haddock SAP is limited to the number of Category A DAS that the vessel has at the start of the trip after factoring in the differential DAS counting. Therefore, if a vessel is fishing in the GOM DA or the SNE DA, the number of Category B DAS that can be used on a trip cannot exceed the number of Category A DAS that the vessel has at the start of the trip divided by 2. The reason for this requirement is that the vessel may be required to flip from a Category B to a Category A DAS due to catching greater than the trip limit for any species, and therefore, would accrue Category A DAS at the rate of 2:1.

DAS TRANSFER PROGRAM

FW 42/FW 3 modifies several aspects of the DAS Transfer Program. Two fundamental aspects of the program have been changed in order to make the program rules less restrictive and to clarify elements of the program: (1) The vessel transferring its NE multispecies DAS permit (transferor) is no longer required to exit all state and Federal fisheries, and is allowed to acquire other fishing permits after the transfer of DAS; and (2) all non-NE multispecies permits that the

transferor vessel has would no longer automatically expire, but may be transferred as a bundle to the vessel receiving the NE multispecies DAS (subject to the pertinent regulations regarding vessel replacement). Duplicate permits must expire, and a vessel may not consolidate DAS or other allocations from non-NE multispecies permits.

The program maintains the conservation tax of 20 percent on Category A and B DAS, and the conservation tax of 90 percent on Category C DAS. For the purpose of calculating the DAS conservation tax, the transferee must specify on the DAS transfer application, which vessel's DAS are being acquired and therefore subject to the conservation tax.

Because the execution of a DAS transfer is a process whereby two limited access NE multispecies permits (with two baselines, DAS allocations, and histories) become a single permit (with a single baseline, DAS allocation, and history), FW 42/FW 3 specifies the rules that pertain to the resultant single permit, as follows:

Effect on Fishing History

All history associated with the transferred NE multispecies DAS permit will be acquired by the recipient (transferee), and will subsequently be associated with the permit rights of the transferee. The pertinent history includes the catch history, DAS use history, and permit rights history. Neither the individual elements of the history associated with the transferor vessel, nor the total history may be separated from the NE multispecies DAS being transferred.

Effect on Vessel Baseline

With respect to the vessel baseline characteristics, the baseline of the transferee vessel would be the smaller baseline of the two vessels or, if the transferee vessel had not previously upgraded under the vessel replacement rules, the applicant could choose to adopt the larger baseline of the two vessels, which would constitute the vessel's one-time upgrade, if such upgrade is consistent with the vessel replacement rules.

Effect on Category D Vessels

Because limited access Hook Gear vessels (Category D) are not allowed to change permit categories under current permit rules, such vessels may only transfer their NE multispecies DAS (acting as a transferor) *to* another Category D vessel. However, such vessels can participate in a DAS transfer as a transferee vessel and acquire DAS *from* any limited access NE multispecies DAS permit category.

Effect on DAS Leasing

For administrative purposes, a vessel is prohibited from participating in the DAS Leasing Program as a lessee or lessor during a particular fishing year and then subsequently participating in the DAS Transfer Program as a transferor during the same fishing year. A vessel will be allowed to participate in the DAS Leasing Program as a lessor or as a lessee and then submit an application for a DAS transfer as a transferor, but the transfer, if approved, will not be effective until the beginning of the following fishing year. Vessels are not prohibited from participating in the DAS Leasing Program after a DAS transaction has occurred. If the baseline of the transferee vessel is adopted in a DAS transfer and the transferee vessel has previously downgraded its DAS Leasing baseline, the downgraded DAS Leasing baseline is maintained.

SNE/MA REGULATED MESH AREA TRAWL CODEND MESH REQUIREMENT

FW 42/FW 3 modifies the current trawl codend mesh requirement applicable in the SNE/MA RMA from 6.5-inch square or 7.0-inch diamond mesh, to 6.5-inch square or 6.5-inch diamond mesh. The intent of this measure is to encourage the use of a 6.5-inch diamond mesh (rather than the current practice of using 6.5-inch square mesh) while fishing for yellowtail flounder in order to reduce yellowtail flounder discards. A 6.5-inch diamond mesh provides more escapement for small yellowtail flounder than does a 6.5-inch square mesh.

RECREATIONAL AND PARTY/CHARTER RULES

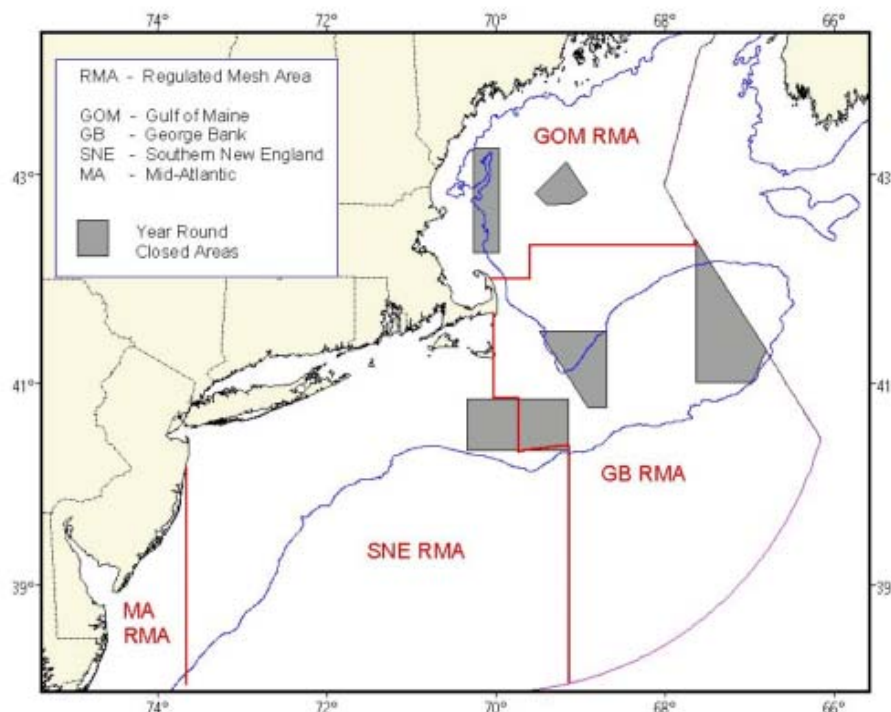
Under FW 42/FW 3, private recreational vessels and vessels fishing under the charter/party regulations of the FMP are subject to the following new measures:

Seasonal GOM Cod Possession Prohibition: Private recreational vessels and charter/party vessels are prohibited from possessing or retaining any cod from the GOM RMA (see Figure 3 below) from November 1 – March 31.

Minimum Size Restrictions: Private recreational vessels and charter/party vessels are subject to a 24-inch minimum size limit for cod when fishing in the GOM RMA.

Gear Stowage Requirement: Private recreational and charter/party vessels are allowed to transit the GOM RMA with cod caught from outside this area, provided all bait and hooks are removed from fishing rods and that all cod are stored in coolers or ice chests. These storage requirements are intended to facilitate the enforceability of these recreational measures.

Figure 3. Regulated Mesh Areas



GB COD FIXED GEAR SECTOR APPROVED

The GB Cod Fixed Gear Sector has been approved. Requirements that apply to all sectors in the FMP apply to the Fixed Gear Sector, including voluntary membership, an allocation based on a hard TAC or DAS, a maximum allocation of 20 percent of a stock's TAC; an allocation based upon landings histories for fishing years 1996 through 2001 (for sectors formed during the period 2004 through 2007 to harvest GB cod); a requirement that sector members must remain in the sector for the entire fishing year and must abide by the rules that apply to the sector for the entire fishing year; and termination of sector operations for the remainder of the fishing year once a hard TAC allocated to a sector is projected to be exceeded, and if a hard TAC allocated to a sector is exceeded in a given fishing year, a required reduction (in the amount of the overage) from the sector's allocation the following fishing year.

This letter is only a summary of the NE multispecies regulations implemented under FW 42/FW 3, and should not be considered as a substitute for the actual regulations. To read these regulations in their entirety, you are encouraged to obtain a complete copy by calling (978) 281-9315, or by accessing the Northeast Regional Office's web page at: <http://www.nero.noaa.gov>. You may also receive permit holder letters by e-mail by clicking on "Permit Holder Letters" at the same website.

If you have any questions regarding the above measures, please contact the Sustainable Fisheries Division at (978) 281-9315.

Sincerely,



for

Patricia A. Kurkul

Regional Administrator

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