



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

January 17, 2006

## **SMALL ENTITY COMPLIANCE GUIDE**

Dear Northeast (NE) Multispecies Days-at-Sea (DAS) and Monkfish Permit Holder:

This letter is to inform you of corrections to the regulations originally implemented by Amendment 13 and Framework Adjustment 40-A (FW 40-A) to the NE Multispecies Fishery Management Plan (FMP). **The corrections described in this letter will become effective on January 26, 2006.**

Both the final rule implementing Amendment 13 (April 27, 2004) and the interim final rule implementing Framework 40-A (November 19, 2004) contained several inadvertent errors and omissions that were inconsistent with the intent of these actions. In addition, there were some measures that required further clarification to ensure proper implementation of these measures and consistency with Amendment 13 and Framework 40-A. The National Marine Fisheries Service (NOAA Fisheries Service) published a proposed and final rule to correct these measures, as described below.

### **MONKFISH PERMIT CATEGORY DEFINITIONS**

The monkfish permit category definitions are revised to clarify that limited access monkfish Category C and D permits may be issued only to those vessels that have been issued a limited access monkfish permit and a limited access NE multispecies DAS category permit or a limited access Atlantic sea scallop DAS category permit. This action also clarifies that limited access monkfish Category A and B permits may be issued to vessels without a NE Multispecies DAS permit or a limited access scallop DAS permit.

Previously, limited access monkfish Category C and D permits were defined as vessels with NE multispecies or scallop limited access permits, while monkfish Category A and B permits were defined as vessels without a NE multispecies or scallop limited access permit. Amendment 13 to the NE Multispecies FMP created an additional limited access multispecies permit that does not require the use of DAS, the limited access NE multispecies Handgear A permit. As a result, based on the previous monkfish permit category definitions, any monkfish Category A or B vessel that qualified for a NE multispecies Handgear A permit would have to change to a Category C or D permit. Considering that the monkfish regulations for Category C and D vessels require that a multispecies or scallop DAS is used every time a vessel uses a monkfish DAS, such vessels would not be able to comply with the monkfish Category C and D provisions. Therefore, the monkfish permit category definitions were revised, as specified above. This enables a vessel issued a limited access monkfish Category A or B permit to obtain a limited access NE multispecies Handgear A permit without affecting its monkfish permit category.



## VESSEL MONITORING SYSTEM (VMS) POWER-DOWN EXEMPTION

The participation period for the VMS power-down exemption is changed from 1 calendar month to 30 calendar days. This is intended to clarify the intent of this measure under Amendment 13 and to minimize impacts to vessels.

### GEORGES BANK (GB) COD HOOK SECTOR PROVISIONS

**Operations Plan Prohibitions:** Two prohibitions implemented under Amendment 13 have been modified to allow vessels participating in the GB Cod Hook Sector (Sector) to operate according to the provisions of the approved Sector Operations Plan. One prohibition is revised to allow dealers to purchase fish from Sector vessels in excess of the possession limits specified in the current regulations, provided this is consistent with the provisions of an approved Sector Operations Plan. A second prohibition is revised to clarify that vessels participating in the GB Cod Hook Sector may fish under the NE multispecies DAS program, as authorized by their Sector Operations Plan.

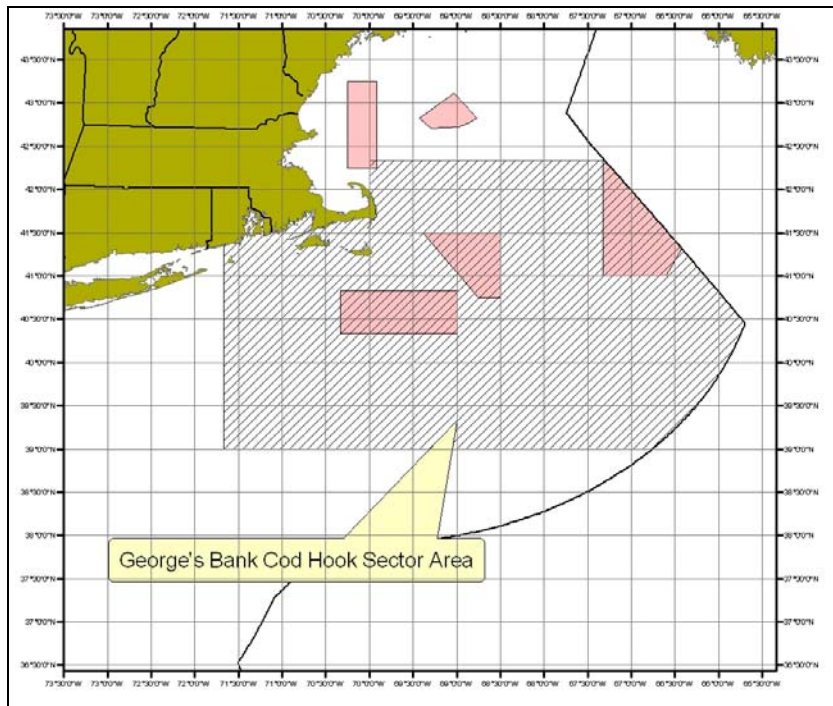
**Liability Regulations:** The regulations are revised to clarify that non-payment of Sector dues, or other such conditions specific to the administration of the Sector, are not a violation of Federal law.

**GB Cod Hook Sector Area Coordinates:** The GB Cod Hook Sector Area coordinates were inaccurately defined in the final rule implementing Amendment 13. The correct coordinates are listed below, with the area depicted in Figure 1.

#### Georges Bank Cod Hook Sector Area

Point	N. Lat.	W. Long.
HS1	(1)	70°00'
HS2	42°20'	70°00'
HS3	42°20'	67°18.4'
(the U.S. Canada Maritime Boundary)		
Follow the U.S. EEZ boundary south to HS4		
HS4	39°00'	66°45.5'
HS5	39°00'	71°40'
HS6	(2)	71°40'

- (1) The east facing shoreline of Cape Cod, MA.
- (2) The south facing shoreline of Rhode Island.



**Figure 1: GB Cod Hook Sector Area.**

### **GULF OF MAINE (GOM) ROLLING CLOSURE AREAS II AND III**

Two inaccurate coordinate points for the GOM Rolling Closure Areas II and III were corrected to read as follows:

#### **Rolling Closure Area II [April 1-April 30]**

Point	N. Lat.	W. Long.
GM1	42°00'	(1)
GM2	42°00'	(2)
GM3	42°00'	(3)
GM5	42°00'	68°30'
GM13	43°00'	68°30'
GM10	43°00'	(4)

- (1) Massachusetts shoreline.
- (2) Cape Cod shoreline on Cape Cod Bay.
- (3) Cape Cod shoreline on the Atlantic Ocean.
- (4) New Hampshire shoreline.

### Rolling Closure Area III [May 1-May 31]

Point	N. Lat.	W. Long.
GM1	42°00'	(1)
GM2	42°00'	(2)
GM3	42°00'	(3)
GM4	42°00'	70°00'
GM23	42°30'	70°00'
GM6	42°30'	68°30'
GM14	43°30'	68°30'
GM18	43°30'	(4)

- (1) Massachusetts shoreline.
- (2) Cape Cod shoreline on Cape Cod Bay.
- (3) Cape Cod shoreline on the Atlantic Ocean.
- (4) Maine shoreline.

### GB SEASONAL CLOSURE AREA

Vessels participating in the Eastern U.S./Canada Haddock Special Access Program (SAP) Pilot Program are now exempt from the May GB Seasonal Closure Area. FW 40-A proposed such an exemption, but the regulation was not included in the FW 40-A final rule. The GB Seasonal Closure Area is depicted in Figure 2 below. Figure 3 depicts the Eastern U.S./Canada Haddock SAP Pilot Program to illustrate what portion of the May GB Seasonal Closure Area overlaps with the Eastern U.S./Canada Haddock SAP.

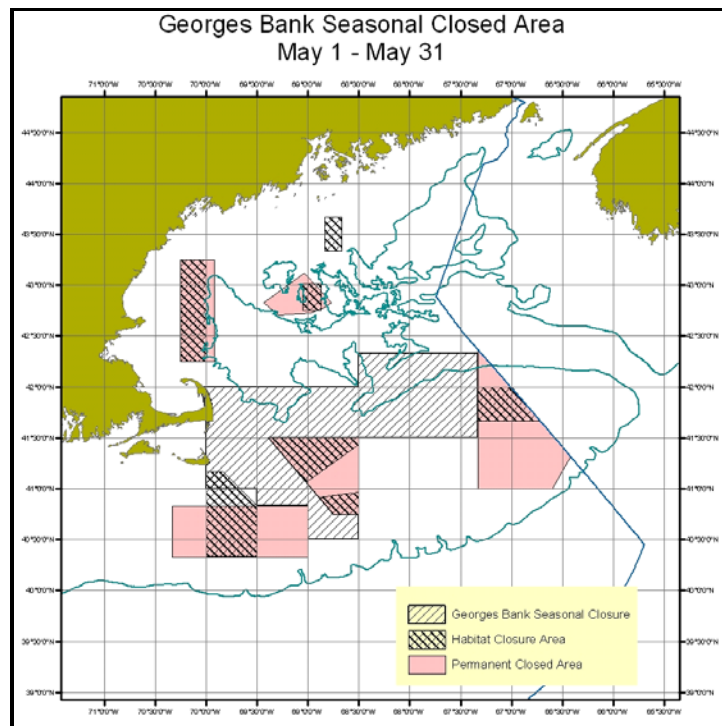
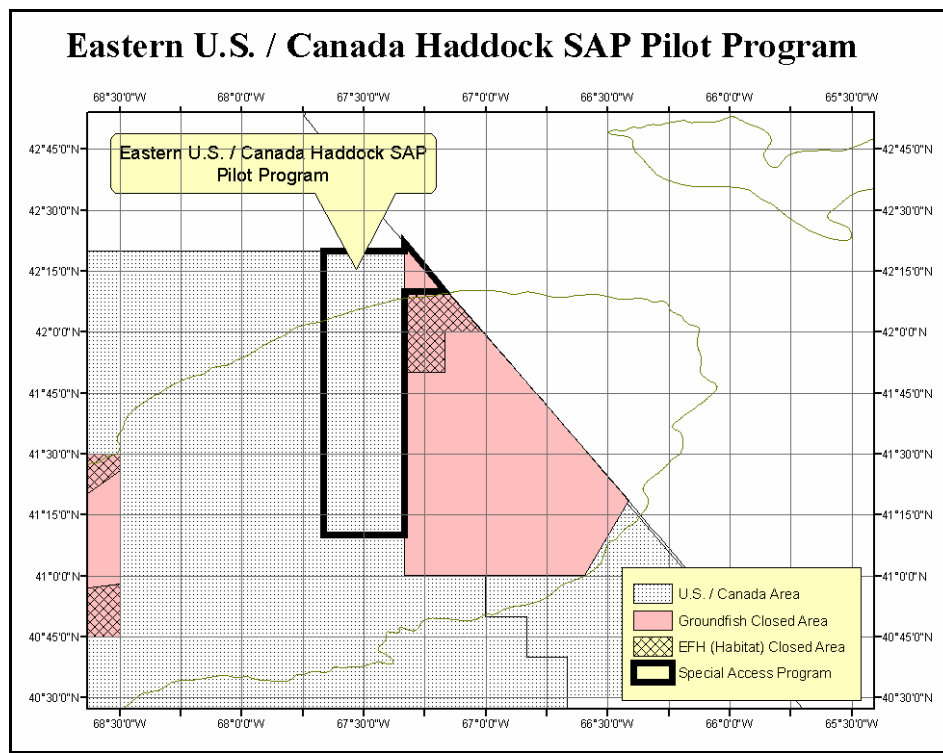


Figure 2: GB Seasonal Closure Area.



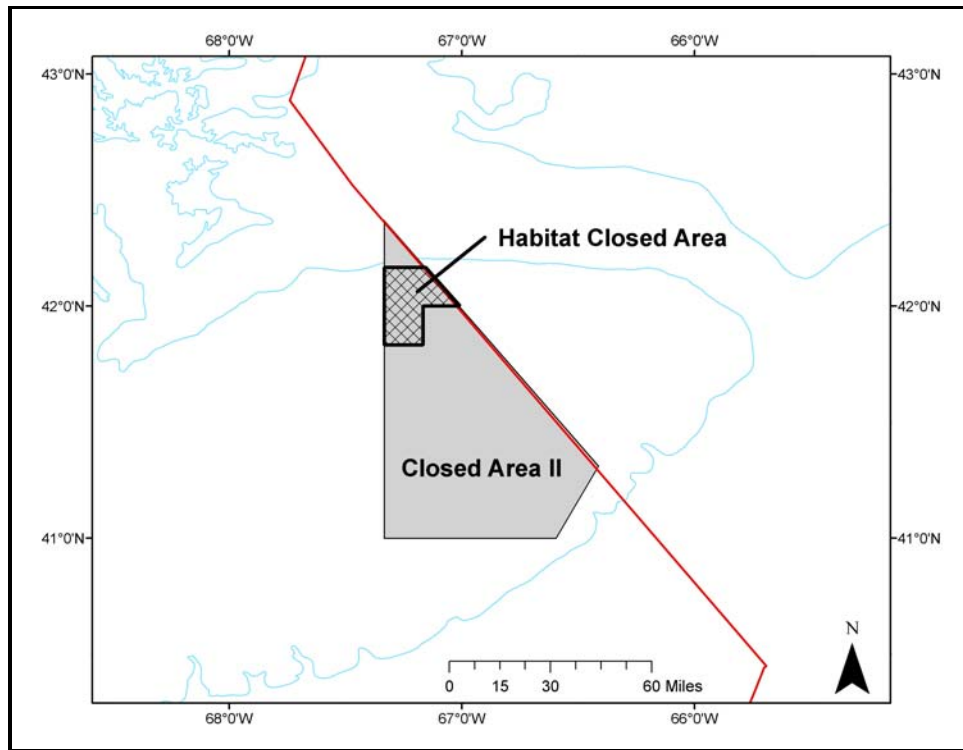
**Figure 3: Eastern U.S./Canada Haddock SAP Pilot Program.**

### **CLOSED AREA II HABITAT CLOSURE AREA**

The coordinates for the Closed Area II Habitat Closure Area were inaccurately described in the final rule implementing Amendment 13. This action corrects these inaccurate coordinate points to accurately reflect the habitat closure area implemented by Amendment 13. The Closed Area II Habitat Closure Area is defined as follows and depicted in Figure 4.

#### **Closed Area II Habitat Closure Area**

Point	N. Lat.	W. Long.
CIIH1	42°10'	67°20'
CIIH2	42°10'	67°9.3'
CIIH3	42°00'	67°0.5'
CIIH4	42°00'	67°10'
CIIH5	41°50'	67°10'
CIIH6	41°50'	67°20'
CIIH1	42°10'	67°20'



**Figure 4: Closed Area II Habitat Closure Area.**

### **EASTERN U.S./CANADA AREA GEAR REQUIREMENTS**

Under Amendment 13, all vessels fishing with trawl gear in the Eastern U.S./Canada Area are required to use either a haddock separator trawl or one of two flounder net types. These nets are intended to allow the retention of haddock while allowing cod to escape. One flounder net type contains an elongated headrope, while the other contains large mesh in the top panel of the net.

The definitions for the flounder nets originally implemented by Amendment 13 are revised based on an informal trawl workshop held at the Northeast Regional Office on May 27, 2004, and input from the public. For both flounder net types, the restriction on the vertical height of the wing end is removed. For the first type of a flounder net, the prohibition of floats in the center 50 percent of the headrope is removed. For the second type of flounder net, these revisions allow for the use of diamond mesh in the top panel of the net, remove references to the square of the net, and insert language that more clearly specifies where to insert large mesh in the top panel of the net.

A flounder trawl net is now defined as bottom trawl gear meeting one of the following two net descriptions:

- A two-seam, low-rise net constructed with mesh size in compliance with § 648.80(a)(4) (i.e., the mesh size regulations for the GB Regulated Mesh Area (RMA)), where the maximum footrope length is not greater than 105 ft and the headrope is at least 30 percent longer than the footrope. The footrope and headrope lengths shall be measured from the forward wing end.

- A two-seam, low-rise net constructed with mesh size in compliance with § 648.80(a)(4) (i.e., the mesh size regulations for the GB RMA), with the exception that the top panel of the net contains a section of mesh at least 10 ft long and stretching from selvedge to selvedge, composed of at least 12-in mesh that is inserted no farther than 4.5 meshes behind the headrope.

These revisions are intended to improve the strength and performance of the flounder net and provide a standard definition of how to incorporate the large 12-inch diamond mesh into the top panel of a flounder net, to help minimize confusion caused by different interpretations of the square of the net in the original flounder net definition implemented by the final rule for Amendment 13.

## **U.S./CANADA MANAGEMENT AREA**

**In-season Adjustment:** Amendment 13 provided the Regional Administrator with the authority to adjust the provisions of the U.S./Canada Management Areas once 30 percent and/or 60 percent of the total allowable catch (TAC) allocations for GB cod, GB haddock, or GB yellowtail flounder is projected to be harvested. It was unclear whether this allowed the Regional Administrator to adjust these provisions after 30-percent and/or 60-percent of the TACs had been caught, or whether changes had to be made when 30-percent and/or 60-percent of the TACs had been caught.

Therefore, this authority has been revised to specify that the Regional Administrator has the authority to modify the U.S./Canada Management Area provisions once 30-percent and/or 60-percent of the TAC allocations of GB cod, GB haddock, or GB yellowtail flounder is projected to be, or has been, harvested. This change is intended to make these provisions consistent with the intent of Amendment 13, which is to allow flexibility to the Regional Administrator in implementing such adjustments to ensure that the TAC allocations are not over-harvested or under-harvested for a particular fishing year.

**Yearly U.S./Canada Management Area TACs:** Per the court order in *Oceana, et al., v. Evans, et al.* (Civil Action No. 04-811 CESH) (D.D.C., March 9, 2005)), the authority of the Regional Administrator to select either the TAC recommendation of the Transboundary Management Guidance Committee (TMGC) or the New England Fishery Management Council (Council), if the Council's recommendation is not consistent with the TMGC recommendations, is removed. The Regional Administrator is required to publish the Council's TAC recommendation for public comment before making the final determination about the yearly TACs for the U.S./Canada Management Area.

## **CLOSED AREA II YELLOWTAIL FLOUNDER SAP**

A limited access NE multispecies DAS vessel intending to participate in the Closed Area II Yellowtail Flounder SAP is required to notify the NOAA Fisheries Service Observer Program of their intent to participate in this SAP at least 72 hours before departing on a trip into this SAP. The NOAA Fisheries Service Observer Program Contact number is: (508) 990-9057. This notification requirement is changed from 5 days to 72 hours, consistent with the notification requirements of other SAPs and to provide vessels greater flexibility to plan fishing trips.

## **SMALL-MESH NE MULTISPECIES POSSESSION RESTRICTIONS**

The requirement that a Letter of Authorization (LOA) is necessary to fish for, and/or possess, silver hake and offshore hake caught with small mesh is removed. The small-mesh NE multispecies possession regulations are also clarified to maintain consistency with existing

regulations and decrease the complexity of the net size requirements and possession limits. These revisions are necessary because the possession restrictions for small-mesh NE multispecies were revised under FW 32, but the regulations were not updated correctly.

## **YELLOWTAIL FLOUNDER LETTERS OF AUTHORIZATION**

Any vessel that obtains a LOA to fish for and land Cape Cod/GOM or Southern New England/Mid-Atlantic yellowtail flounder is no longer required to cancel that LOA to fish in the U.S./Canada Management Area. A vessel issued such an LOA may fish for GB yellowtail flounder in the U.S./Canada Management Area, provided it complies with the possession limits for the U.S./Canada Management Area. A vessel that fishes inside and outside of the Western U.S./Canada Area on the same trip must comply with the most restrictive yellowtail flounder possession limits between the areas fished. This modification removes unnecessary and unintended restrictions on vessel activities, increases flexibility in planning fishing trips, and eliminates some of the administrative burden of these LOAs on the National Marine Fisheries Service.


## **OFFLOADING REQUIREMENT**

This rule clarifies that once a vessel has ended its trip by crossing the VMS demarcation line or calling out of the DAS program, it must offload species in excess of the daily landing limit (i.e., pounds per DAS) prior to leaving port and beginning a subsequent fishing trip. A vessel that has ended its trip may retain on board up to one day's worth of a species regulated by a daily landing limit along with other species regulated by an overall trip limit (i.e., pounds per trip) for a subsequent trip, provided the vessel abides by the overall trip limit for those species during that subsequent trip.

Example: A vessel fishes in the GOM and possesses 1,600 lb of cod, along with 5,000 lb of haddock. Once this vessel ends its trip, it must offload at least 800 lb of GOM cod (to maintain only 1 day's worth of cod on board) before leaving port on a subsequent trip), but may retain the 5,000 lb of haddock. Offloading species for which there is a daily landing limit is necessary to effectively enforce daily possession limits for any subsequent trip.

This letter is only a summary of the NE multispecies regulations 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.nmfs.gov>. You may also receive permit holder letters by e-mail by clicking on "NOAA Fisheries News Releases" on our website at <http://www.nero.nmfs.gov>; or via fax by providing a fax number through a written request to the above address, or by faxing your request to 978-281-9135. If you have any questions regarding the above measures, please contact the Sustainable Fisheries Division at (978) 281-9315.

Sincerely,



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.