



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

February 12, 2003

## **Small Entity Compliance Guide**

Dear limited access Category C or D monkfish permit holder:

An August 1, 2002, interim final rule, which implemented additional restrictions under the Northeast (NE) Multispecies Fishery Management Plan (FMP), unintentionally restricted monkfish days-at-sea (DAS) allocated to limited access Category C and D monkfish permitted vessels that fished under a NE multispecies DAS, and not under a monkfish DAS, during the period May through July, 2002. The National Marine Fisheries Service (NOAA Fisheries) became aware of this issue following the publication of the interim final rule and, on January 28, 2003, published a final rule in the Federal Register (68 FR 4113) implementing a regulatory amendment to rectify this unintended result. The purpose of the regulatory amendment is to revise the regulations pertaining to monkfish DAS in order to provide limited access Category C and D vessels the opportunity to fish their full allocation of monkfish DAS, regardless of the amount of NE multispecies DAS available to an individual vessel as of August 1, 2002.

### Monkfish-only DAS under the August 1, 2002, Interim Final Rule

In effect, the August 1, 2002, interim final rule counted the NE multispecies DAS fished prior to August 1, 2002, against a limited access monkfish Category C or D vessel's monkfish DAS if that vessel did not have sufficient NE multispecies DAS to cover the usage of monkfish DAS. For example, under the August 1, 2002, interim final rule, a limited access Category C or D vessel that used 10 NE multispecies DAS during May 1 - July 31, 2002, but did not use any monkfish DAS during this time period, was allocated monkfish-only DAS equal to the difference between 40 monkfish DAS and the number of NE multispecies DAS allocated. In this example, the resulting number is 20 monkfish-only DAS (40 allocated monkfish DAS - 20 allocated NE multispecies DAS = 20 monkfish-only DAS). However, because the vessel had only 10 unused NE multispecies DAS remaining after July 31, it was allowed to fish only 10 of the remaining 20 monkfish DAS (which are linked to the NE multispecies DAS), plus the 20 monkfish-only DAS. Therefore, under the August 1, 2002, interim final rule, the vessel could use only 30 monkfish DAS out of its 40 allocated monkfish DAS for the 2002 fishing year. This calculation is summarized as follows:

#### Under August 1, 2002, interim final rule

1. 40 monkfish DAS - 20 NE multispecies = 20 monkfish-only DAS beginning August 1, 2002
2. 20 NE multispecies DAS - 10 used NE multispecies DAS during May through July 2002 = 10 monkfish/multispecies DAS (to be used concurrently) beginning as of August 1, 2002
3. 10 unused monkfish/multispecies DAS + 20 monkfish-only DAS = 30 monkfish DAS available for the remainder of the 2002 fishing year

### Monkfish-only DAS under the Regulatory Amendment

For the 2002 fishing year (May 1, 2002 - April 31, 2003), this regulatory amendment authorizes a vessel to fish monkfish-only DAS (see below for definition) equal to the difference between the number of unused monkfish DAS and unused NE multispecies



DAS as of August 1, 2002, in addition to the unused monkfish DAS associated with the vessel's unused NE multispecies DAS. For example, if a Category C or D vessel was allocated 40 NE multispecies DAS under the August 1, 2002, interim final rule, and used 10 of these NE multispecies DAS and zero monkfish DAS prior to August 1, 2002, the vessel would be authorized to fish, as monkfish-only DAS, the difference between the NE multispecies DAS and monkfish DAS remaining. Therefore, this vessel would be authorized to fish 30 monkfish-only DAS (40 monkfish DAS remaining - 10 NE multispecies DAS remaining) in addition to the 10 monkfish DAS associated with the remaining 10 NE multispecies DAS. This calculation is summarized as follows:

Under regulatory amendment

1. [40 monkfish DAS - (0 monkfish DAS used)] - [20 NE multispecies DAS - (10 NE multispecies DAS used)] = 30 monkfish-only DAS beginning August 1, 2002.
2. 20 NE multispecies DAS - 10 used NE multispecies DAS = 10 monkfish/multispecies DAS (to be used concurrently) beginning August 1, 2002
3. 10 unused monkfish/multispecies DAS + 30 monkfish-only DAS = 40 monkfish DAS available for 2002 fishing year

Monkfish-only DAS for Fishing Year 2003

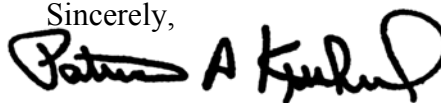
For the 2003 fishing year (May 1, 2003 - April 31, 2004), vessels allocated fewer NE multispecies DAS than monkfish DAS can fish the difference in DAS as monkfish only DAS, as stipulated in the August 1, 2002, interim final rule.

Monkfish-Only DAS

**A monkfish-only DAS is a DAS that is not used in conjunction with a NE multispecies DAS. Under this regulatory amendment, limited access monkfish Category C and D vessels are required to fish their monkfish-only DAS under the same provisions as limited access monkfish Category A and B vessels. Because they do not fish their monkfish DAS in conjunction with a NE multispecies DAS, limited access monkfish Category A and B vessels are required to fish their monkfish DAS in an existing monkfish exempted fishery (see description of Monkfish Exempted Fisheries attached), and may not retain any regulated NE multispecies.**

This Small Entity Compliance Guide complies with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996.

Sincerely,



Patricia A. Kurkul  
Regional Administrator

Attachment

## Monkfish Exempted Fisheries

### Exempted Fisheries

*An exempted fishery is one that the Regional Administrator has determined will result in a minimal bycatch of regulated multispecies and will not jeopardize fishing mortality objectives of the FMP. Specifically, the percentage of regulated multispecies bycatch must be less than 5 percent, by weight, of total catch. The current monkfish exempted fisheries for the Gulf of Maine, Georges Bank and Southern New England Exemption Areas are described in the following paragraphs. The Mid-Atlantic Exemption Area is exempt in its entirety. (See chart provided.)*

### Gulf of Maine/Georges Bank (GOM/GB) Exemption Area:

The following fishery has been determined to be consistent with the exemption criteria:

1. GOM/GB Monkfish Gillnet Exempted Fishery (officially known as the GOM/GB Dogfish and Monkfish Gillnet Exempted Fishery) as defined by the following coordinates, provided the vessel complies with the specifications listed below.

#### GOM/GB Monkfish Gillnet Exemption Area

<u>Latitude</u>	<u>Longitude</u>
41/35' N.	70/00' W.
42/49.5' N.	70/00' W.
42/49.5' N.	69/40' W.
43/12' N.	69/00' W.
Maine Shoreline	69/00' W.

### GOM/GB Monkfish Gillnet Exempted Fishery Specifications:

- a) From July 1 through September 14, an exempted fishery for monkfish may be conducted by vessels using gillnet gear only.
- b) Vessels fishing under this exemption are restricted to a minimum mesh size of 10-inch (diamond) throughout the net.
- c) No species other than monkfish, or American lobster up to 10 percent by weight of all other species on board up to 100 lobsters for trips of 24 hours or less, or 200 lobsters for trips longer than 24 hours, whichever is less, may be retained on board the vessel and landed.

### Southern New England (SNE) Exemption Area:

The following fisheries have been determined to be consistent with the exemption criteria:

1. SNE Monkfish Gillnet Exempted Fishery (officially known as the SNE Monkfish, Skate & Dogfish Gillnet Exempted Fishery) as defined below, provided the vessel complies with the specifications listed below.

#### SNE Monkfish Gillnet Exemption Area

Defined by a line running from the Massachusetts shoreline at 41/35' N. latitude and 70/00' W. longitude, south to its intersection with the outer boundary of the EEZ,

southwesterly along the outer boundary of the EEZ, and bounded on the west by the eastern boundary of the Mid-Atlantic Exemption Area.

**SNE Monkfish Gillnet Exempted Fishery Specifications:**

- a) The exempted fishery for monkfish may be conducted by vessels using gillnet gear only.
- b) Vessels fishing under this exemption are restricted to a minimum mesh size of 10-inch (diamond) throughout the net.
- c) Vessels fishing under this exemption may not fish for, harvest, possess, or land any species of fish other than monkfish and skate, and the current large mesh exempted and bycatch species allowed in the SNE Exemption Area.\*\*

\*\*Butterfish, dogfish (trawl), herring, mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake, and weakfish, and SNE bycatch species: Conger eels, searobins, black sea bass, red hake, tautog (blackfish), blowfish, cunner, John Dory, mullet, bluefish, tilefish, longhorn sculpin, fourspot flounder, alewife, hickory shad, American shad, blueback herring, sea ravens, Atlantic croaker, spot, swordfish, monkfish and monkfish parts--10 percent, by weight, of other species on board, American lobster--up to 10 percent by weight of all other species on board up to 100 lobsters for trips of 24 hours or less or 200 lobsters for trips longer than 24 hours, whichever is less.

- 2. SNE Monkfish Trawl Fishery Exemption (officially known as the SNE Monkfish & Skate Trawl Exempted Fishery) as defined below, provided the vessel complies with the specifications listed below.

**SNE Monkfish Trawl  
Exemption Area**

The SNE Monkfish Trawl Fishery Exemption Area is defined as the area bounded on the north by a line extending eastward along 40°10' N. lat., and bounded on the west by the eastern boundary of the Mid-Atlantic Exemption Area.

**SNE Monkfish Trawl Exempted Fishery Specifications:**

- a) Vessels fishing under this exemption are restricted to a minimum mesh size of 8-inch square or diamond mesh applied throughout the codend for at least 45 continuous meshes forward of the terminus of the net. All nets with a mesh size smaller than the minimum mesh size must be properly stowed. Nets must also be stowed when transiting to and from the SNE Monkfish Fishery Exemption Area from north of 40°10' N. latitude and east of the Mid-Atlantic Exemption Area boundary.
- b) Vessels fishing in this exemption may not fish for, possess, or land any species of fish other than monkfish, skate and the current large mesh exempted and bycatch species allowed in the SNE Exemption Area.\*\*

**Mid-Atlantic (MA) Exemption Area:**

Vessels fishing in the MA Exemption Area are exempt from the NE multispecies 5-percent bycatch criteria specifications and may, therefore, fish under a monkfish-only DAS within the entire MA Exemption Area, provided that they do not possess or land regulated multispecies finfish.

**Exemption Areas**

