

## **Small Entity Compliance Guide**

This letter informs you that National Marine Fisheries Service (NMFS) has removed, pursuant to a Court order issued on May 23, 2002, in Conservation Law Foundation, et al. v. Evans, et al., three measures included in regulations governing the Northeast multispecies fishery. These three measures, published by interim rule on May 6, 2002, had been added by Court order to the measures already implemented by NMFS in an interim rule published on April 29, 2002. The rule published on April 29 was based on the Settlement Agreement Among Certain Parties, which was submitted by NMFS and other parties to the Court as the appropriate remedy in the lawsuit referred to above. In its May 23 order, the Court reversed an earlier order by implementing the Settlement Agreement as the appropriate remedy and ordering NMFS to bring its regulations into conformance with the Settlement Agreement. By removing these three measures, the Northeast multispecies regulations now conform to the provisions of the Settlement Agreement.

The three measures that were removed by interim final rule, effective June 1, 2002, are described below. The measures that remain in place are those contained in the interim final rule published on April 29, 2002. These remaining measures, which were summarized in an earlier permit holder letter, are summarized again for you below. In addition, I have attached a brief summary of additional measures included in the Settlement Agreement that are proposed to be implemented by August 1, 2002.

### **CHANGES EFFECTIVE JUNE 1, 2002**

The three measures described below were not included in the Settlement Agreement, but implemented by Court order in the interim rule published on the May 6, 2002. These measures are now removed from the regulations.

#### **Closed Areas**

The year-round area closures adjacent to the Cashes Ledge Area Closure, termed "Cashes Ledge East" and "Cashes Ledge West" in the April 29, 2002, letter mailed to you, are removed. Please refer to that earlier letter for the specific coordinates of those areas. Note that the primary Cashes Ledge Area Closure *remains* in effect.

#### **De-hooking Gear**

The requirement for hook gear vessels to use a minimum of 6-inch spacing between the fairlead rollers of de-hooking gear ("crucifiers") is removed.

**Minimum Fish Size for Commercial Vessels**

The minimum fish size for cod harvested while fishing commercially that may be lawfully sold is decreased from 22 inches to 19 inches, consistent with the regulations that were in place prior to the Court's Remedial Order.

**MEASURES STILL IN PLACE ON JUNE 1, 2002**

All other management measures under the Northeast Multispecies FMP that are not removed by this rule remain in effect.

**Gulf of Maine (GOM) and Georges Bank (GB) Regulated Mesh Areas (RMA)**

The division of the GOM/GB RMA into two areas remains, since some measures are specific to the GOM area only. Please refer to the large permit holder letter announcing the May 1, 2002, measures for specifics on these RMAs.

**Days-at-Sea (DAS) Restrictions**

*Minimum DAS Counting of 15 hours (all multispecies DAS vessels)*

The revision to DAS counting from May through July, 2002, remains. Specifically, the first day of a multispecies DAS fishing trip that lasts longer than 3 hours will be counted as a minimum of 15 hours on the DAS clock. Trips of 3 hours or less will be counted as actual time to account for aborted trips due to bad weather, breakdowns, etc. This requirement of the alternative is summarized in Table 1.

Table 1. DAS counting scheme during May through July.

ALL AREAS	
DAS Counting--all vessels*	
* From 0 to 3 h	Counted as actual time
* From > 3 to 15 h	Counted as 15 h
* > 15 h	Counted as actual time

*Limitation on DAS Use (all areas)*

Vessels are still restricted to the 25-percent use restriction for DAS. Any vessel fishing under a multispecies DAS between May 1-July 31, 2002, is allowed to use no more than 25 percent of its annual allocated DAS during that period.

*Prohibition on "Front-loading"*

Until at least July 31, 2002, owners of multispecies vessels or their authorized representative must notify the Regional Administrator no earlier than 1 hour prior to the vessel leaving port to fish under the multispecies DAS program. A DAS begins once the call has been received and a confirmation number is given to the vessel. This measure applies to all vessels fishing on a multispecies DAS, regardless of the period or area fished.

### **Closed Areas**

From May 1-July 31, 2002, no fishing vessel or person on a fishing vessel may enter, fish in, or be in; and no fishing gear capable of catching multispecies, unless otherwise exempted, may be in, or on board a vessel in, the areas known as the Western GOM (WGOM) Area Closure and the Cashes Ledge Area Closure.

### **Rolling Closure Areas**

From May 1-May 31, 2002, no fishing vessel or person on a fishing vessel may enter, fish in, or be in; and no fishing gear capable of catching multispecies, unless otherwise allowed as exempted, may be in, or on board a vessel in, the expanded area known as Rolling Closure Area III.

From June 1-June 30, 2002, no fishing vessel or person on a fishing vessel may enter, fish in, or be in; and no fishing gear capable of catching multispecies, unless otherwise allowed as exempted, may be in, or on board a vessel in, the expanded area known as Rolling Closure Area IV.

Please refer to earlier correspondence for the coordinates of these closure areas and exemptions to the closure areas. A vessel may transit the WGOM Area Closure, the Cashes Ledge Area Closure, and the GOM Rolling Closure Areas, provided that the gear is stowed properly according to the regulations.

### **Gear Restrictions**

#### **Minimum Mesh Size Requirements when Fishing in the GOM RMA**

*Otter Trawl Vessels:* Vessels using trawls (other than midwater trawls) and fishing any part of a multispecies DAS trip in the GOM RMA will be required to fish with a minimum of 6.5-inch diamond or 6.5-inch square mesh in the codend. See the previous correspondence to you regarding the application of this mesh requirement.

*Gillnet Vessels:* Trip gillnet vessels, when fishing in the GOM RMA during any part of a trip under a multispecies DAS, will be required to fish with nets with a minimum of 6.5-inch mesh. Day gillnet vessels must fish with nets with a minimum mesh size of 6.5 inches when fishing with roundfish gillnets, or 7 inches when fishing with

flatfish gillnet gear when fishing any part of a trip under a NE multispecies DAS in the GOM RMA.

#### **Additional Gillnet Restrictions**

Day gillnet vessels are restricted to 50 roundfish nets (stand-up nets) or 100 flatfish nets (tie-down nets) when fishing under the NE multispecies DAS program, regardless of where the vessel is fishing. Vessels may fish any combination of roundfish and flatfish gillnets, up to 100 nets, provided the number of roundfish and flatfish gillnets does not exceed the limitations specific to each.

#### Monkfish Category C and D vessels

Monkfish vessels that have a monkfish limited access Category C or D permit (i.e., vessels that possess both a monkfish and multispecies limited access permit) and that are fishing as a Day gillnet vessel under a monkfish DAS are restricted to 150 nets (from the current 160 nets), provided the vessel fishes with nets with a minimum mesh size of 10 inches, for the duration of this interim action.

#### **RECREATIONAL AND CHARTER/PARTY VESSEL RESTRICTIONS**

##### **Minimum fish size increase (private charter/party vessels)**

Although the minimum length for cod harvested commercially has been returned to its original size, the minimum length for cod retained by federally permitted charter/party vessels not on a multispecies days-at-sea (DAS), and private recreational vessels not holding a Federal permit and fishing in the EEZ, remains 23 inches.

##### **Possession limit (charter/party vessels)**

The cod and haddock bag (possession) limit when fishing on a charter/party vessel not on a multispecies DAS, any part of a trip in the GOM RMA, for person remains no more than 10 cod or haddock, per person, combined, per trip. The current per person bag limit for private recreational vessels of 10 cod and/or haddock, combined, when fishing anywhere within the EEZ, remains unchanged (as do all other recreational restrictions).

##### **GOM closed area authorization to fish (charter/party vessels)**

A charter/party vessel is prohibited from fishing under the charter/party regulations in the GOM closure areas unless the vessel has on board a letter of authorization (LOA) issued by the Regional Administrator. This LOA, valid for 3 months, exempts the charter/party vessel from the GOM closure areas, provided the vessel does not fish under a multispecies DAS (and does not sell fish) during the time of the authorization.

This letter is only a summary of the regulations that have been implemented. To read these regulations in their entirety, you are encouraged to obtain a complete copy by calling (978) 281-9278, or by accessing the Northeast Regional Office's web page at: <http://www.nero.nmfs.gov>. At that site, you may also retrieve the earlier permit holder letters referenced throughout this letter (<http://www.nero.nmfs.gov/ro/doc/important.html>).

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

Attachment

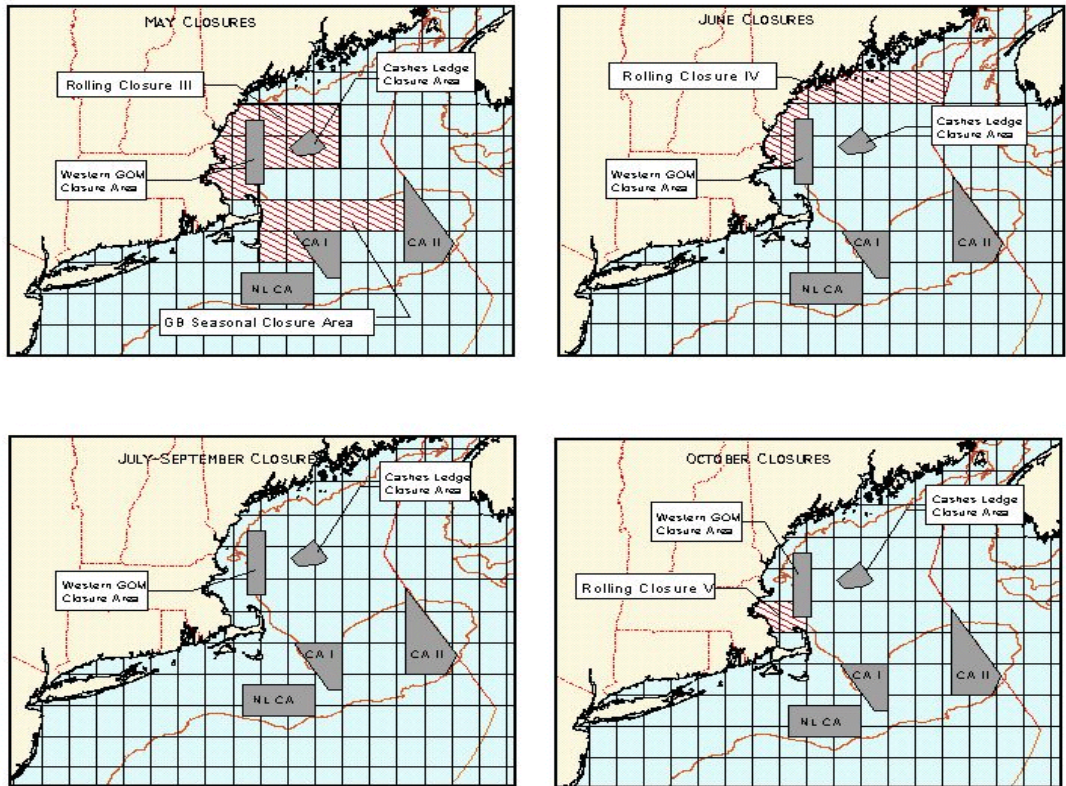


Figure 1. Closure Areas for duration of action and rolling closures.

## ATTACHMENT

This **brief** summary of the charter/party and recreational measures to be implemented for August 1, 2002 - and continued until the implementation of Amendment 13 - is provided for your information and may not contain all pertinent information. NMFS will be accepting comments on these measures only when they are published in the *Federal Register*, and you will be provided greater detail about these measures prior to their effective date. All other status quo measures will also apply during that time and throughout the range.

The August 1, 2002, measures include those measures summarized in this letter, plus the following measures:

### For all areas

- Using the period of May 1, 1996 - April 30, 2001, freeze DAS for the 2002/2003 fishing year at the **maximum** DAS used by a permit in any single year, not to exceed the current allocation. No vessel shall receive less than 10 days.
- Reduce DAS by 20% from the above baseline, taking into account DAS used prior to the August 1, effective date.
- Increase the minimum size for cod that may be sold to 22".
- Reduce the trip limit for open access Hand-gear vessels to 200 lb, combined, of cod, haddock, and yellowtail flounder.
- Prohibit new open access Hand-gear permit from being issued to any vessel that has never been issued such permit, or has not submitted an application for such permit as of August 1, 2002.
- Prohibit use of de-hookers ("crucifiers") with less than 6" spacing between the fairlead rollers.
- Increase the mesh sizes in the Large-mesh permit category to 2" greater than the current regulated mesh size.

### Georges Bank specific measures

- Maintain the cod trip limit at 2,000 lb/day, with a maximum trip limit of 20,000 lb/trip (as a trip is currently defined). Cod landing limits and clock running computations on Georges Bank shall be the same as for GOM cod.
- Close area blocks (30-minute squares) 80, 81, and 118, and 119 & 120 south of 40/20' N. lat. during May 2003.
- Restrict limited access multispecies vessels to 3,600 12/0 circle hooks.
- Restrict all vessels using gillnet mesh to no less than 6.5" mesh with a limit of 50 nets.
- Restrict limited access multispecies vessels to 3,600 12/0 circle hooks.

### Gulf of Maine specific measures

- Increase the cod trip limit to 500 lb/day, with a maximum trip limit of 4,000 lb/trip.
- Restrict Limited access multi-species vessel to 2,000 12/0 circle hooks.
- Open areas 124 and 125 in January, February, and March.

- During the months of March through June, allow only tiedown nets to be used, except for monkfish gillnets of 10" or greater mesh size. Tags for all nets (including monkfish nets) shall be limited to 150 tags--three tags per stand-up, two tags per tie-down, and one tag per monkfish net.

#### Southern New England (SNE) specific measures

- Revise the boundary for the area where specific SNE measures apply.
- For trawl vessels, restrict the mesh in the codend to no less than 7.0" diamond or 6.5" square.
- Restrict all vessels using gillnet mesh to no less than 6.5", with a limit of 75 nets, except monkfish gillnets of 10" or greater mesh.
- Implement a SNE yellowtail flounder trip limit as follows:
  - March 1 - May 31: 250 lb possession
  - June 1 - February 28: 750 lb/day, with a maximum trip limit of 3,000 lb/trip
  - Prohibit possession of yellowtail flounder south of 40/ N. lat.
- Restrict limited access multi-species vessel to 2,000 12/0 circle hooks.

#### Party/Charter Vessels

- Increase cod/haddock fish size to 23" for vessels not on a DAS.
- Ten- cod/haddock creel limit Gulf of Maine Apr. 1 thru Nov. 30.
- 5 cod creel limit Gulf of Maine Dec. 1 - Mar. 31.
- Vessels intending to charter/party fish in the Gulf of Maine closed areas must declare into charter/party fishery for the duration of the closure or for three months whichever is greater

#### Recreational measures - all areas

##### Private Recreational Vessels

- 10 cod/haddock creel limit, except 5 cod creel limit in Gulf of Maine during Dec. 1 - Mar. 31.

All status quo measures will continue to apply.