



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

August 16, 2002

Small Entity Compliance Guide

Dear Limited Access Monkfish Category C or D Permit Holder:

A permit holder letter that was recently sent to you described management measures that were implemented through an August 1, 2002, interim final rule under the Northeast (NE) Multispecies Fishery Management Plan. This is a follow-up to that letter, further explaining how the August 1, 2002, measures may impact your monkfish days-at-sea (DAS).

As a Category C or D limited access monkfish vessel (i.e., a vessel that holds both a limited access NE multispecies and limited access monkfish permit), your vessel is allocated up to 40 monkfish DAS each fishing year (May 1 through April 30). Similar to the regulations specified in the Monkfish Fishery Management Plan, the August 1, 2002, interim final rule requires a vessel's monkfish DAS and NE multispecies DAS to run concurrently when fishing under the monkfish DAS program. The intent of the interim final rule is to provide owners of limited access monkfish Category C or D vessels with the opportunity to fish their entire 40 monkfish DAS allocation, regardless of the number of NE multispecies DAS they are allocated for the 2002 fishing year, or that are used before August 1, 2002. However, the interim final rule, as currently written, specifies that Category C or D monkfish vessels that have been allocated fewer than 40 NE multispecies DAS may fish only those monkfish DAS equal to the difference between their NE multispecies DAS allocation and their monkfish DAS allocation for the fishing year May 1 through April 30, minus any NE multispecies or monkfish DAS used during May through July 2002. This does not account for those vessels that have used NE multispecies DAS before August 1, 2002, and as a result, have fewer unused NE multispecies than unused monkfish DAS as of August 1, 2002. Because such vessels would not be provided the opportunity to fish their full 40 monkfish DAS allocation for the 2002 fishing year, the National Marine Fisheries Service (NOAA Fisheries) is considering an amendment to the interim final rule to address this result.

If approved, the amendment would enable Category C or D monkfish vessels to fish their unused monkfish DAS as of August 1, 2002, regardless of how many NE multispecies DAS are available to them. Therefore, if implemented, the amendment would allow a vessel to fish monkfish-only DAS (the vessel would not be required to use a concurrent NE multispecies DAS) equal to the difference between the number of unused monkfish DAS and unused NE multispecies DAS as of August 1, 2002. To illustrate how the monkfish-only DAS are calculated under the current interim rule versus the amendment under consideration, the following example is provided:

Under the Current Interim Rule - This example considers



that a vessel is allocated 20 NE multispecies DAS pursuant to the current interim rule. If the vessel used 10 NE multispecies DAS during May 1 - July 31, 2002, but did not use any monkfish DAS during this time period, under the current interim rule, the vessel could fish, as monkfish-only DAS, the difference between 40 (monkfish DAS) and the number of NE multispecies DAS allocated. In this case, the resulting number is 20 monkfish-only DAS (40 monkfish DAS - 20 allocated NE multispecies DAS = 20 monkfish-only DAS). However, because the vessel has only 10 unused NE multispecies DAS remaining after July 31, it can only fish 10 of the remaining 20 monkfish DAS (which are linked to the NE multispecies DAS), plus the 20 monkfish-only DAS. Therefore, the vessel could use only 30 monkfish DAS out of its 40 allocated monkfish DAS for the 2002 fishing year under the current interim final rule. This calculation is summarized as follows:

Current 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

Under the Amendment under consideration - Assuming the same facts as above, the vessel could fish, as monkfish-only DAS, the difference between the number of unused monkfish DAS and the number of unused multispecies DAS. This calculation results in 30 monkfish-only DAS (40 (unused monkfish DAS) - 10 (unused multispecies DAS) = 30 monkfish-only DAS). The vessel could also fish an additional 10 monkfish DAS in combination with the 10 unused multispecies DAS. Therefore, the vessel would have the opportunity to use all 40 monkfish DAS. This calculation is summarized as follows:

Amendment under consideration

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

Under the current interim rule, and under the potential amendment, if approved, vessels would be required to fish their monkfish-only DAS under the same provisions as limited access monkfish Category A and B vessels. Limited access monkfish Category A and B vessels are required to fish their monkfish DAS in an existing monkfish exempted fishery (see description of exempted fisheries below).

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. Following are the current monkfish exempted fisheries for the Gulf of Maine, Georges Bank and Southern New England Exemption Areas (the Mid-Atlantic Exemption Area is exempt in its entirety). Please refer to the recent permit holder letter that described the management changes in the August 1, 2002, interim final rule for a definition of the Exemption Areas.

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.

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

Sincerely,



Patricia A. Kurkul
Regional Administrator