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Marine Fisheries Advisory

**FRAMEWORK 42 REINSTATED EXCEPT  
2:1 DAYS-AT-SEA (DAS) COUNTING MEASURES  
Leasing application deadline extended by 30 days**

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On Tuesday, February 17th U.S. District Court Judge Edward F. Harrington modified his earlier decision by ordering: (1) reinstatement of Framework 42 to the Northeast Multispecies Fishery Management Plan except for those provisions relating to the Gulf of Maine 2:1 DAS counting system which will remain suspended until Saturday, March 28 th, and (2) an additional 30 days for fishermen to submit DAS leases for this fishing year.

The Commonwealth of Massachusetts and the State of New Hampshire requested this modified decision.

The Court's original January 26th Order requires the Secretary of Commerce to "seriously consider and analyze the "Mixed-Stock Exception." In his decision, Judge Harrington indicated: "...administrative agencies are to be expected to approach their work carefully and thoroughly. This means taking their time before making decisions affecting society, especially those of great consequences, such as Framework 42..." In his February 17 order, Judge Harrington stated: "Commerce's failure to seriously consider and analyze a Guideline, namely the Mixed-Stock Exception, prior to promulgating Framework 42 must have consequences. Such a failure might have resulted in a flawed Framework..."

On February 10th the New England Fishery Management Council received an analysis of the Mixed Stock Exception from the National Marine Fisheries Service. The Council disagreed with the report's conclusions that the exception could not be applied in the Northeast Multispecies Fishery and requested NMFS to reconsider its position to make it consistent with Congressional

intent: (1) for optimum yield to be from the fishery as a whole, and (2) that one stock should not dictate severe constraints on the fishery as a whole while that stock is being rebuilt.

NMFS is required to file a report with the Court no later than March 27.