

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

COMMONWEALTH OF MASSACHUSETTS
by its DIVISION OF MARINE FISHERIES,

and

STATE OF NEW HAMPSHIRE, by its FISH
& GAME DEPARTMENT, DIVISION OF
MARINE FISHERIES,

Plaintiffs

v.

CIVIL ACTION NO.:
06-12110-EFH

CARLOS M. GUTIERREZ, in his official
capacity as Secretary of Commerce of the
United States, et al.,

Defendants.

ORDER

April 10, 2009

HARRINGTON, S.D.J.

Federal Defendants having complied with the Court’s Orders dated January 26, 2009, February 17, 2009 and February 23, 2009 by “seriously considering and analyzing” the Mixed-Stock Exception Guideline, the suspension applicable to those provisions of Framework 42 relating to the 2:1 Days at Sea counting system is lifted and Framework 42 is fully reinstated.

Furthermore, because the Federal Defendants “seriously considered and analyzed” the Mixed-Stock Exception Guideline, Federal Defendants’ Cross-Motion for Summary Judgment (Docket No. 28) is allowed as to Count II.

The court declines to rule on Counts I, IV, V, VI, VII and VIII at this time. The court shall not consider any motions with respect to the final interim rule until it is published on April 13, 2009.

Federal Defendants' Cross-Motion for Summary Judgment (Docket No. 28) is
ALLOWED as to Count II.

SO ORDERED.

/s/ Edward F. Harrington
EDWARD F. HARRINGTON
United States Senior District Judge