

remaining allocated DAS, whichever is less. For example, a vessel with 50 DAS could lease any number of DAS equal to 5 or more DAS to as many vessels as possible. If the vessel leased 6 DAS to eight vessels, leaving 2 DAS (i.e., 6 DAS \times 8 = 48 DAS), the vessel could then lease its remaining 2 DAS to another vessel, since it only has 2 DAS left. Although setting a minimum increment at a level less than 5 DAS would provide additional flexibility to the industry, NMFS believes it would be administratively burdensome to process and monitor the increased number of leases that this may invite, particularly in the first year of implementation. Because, as a new Program, the actual administrative burden associated with the Program is unknown, NMFS has determined that a 5- DAS minimum for vessels applying to lease DAS would better enable NMFS to ensure it can effectively administer the Program. Nevertheless, NMFS is interested in

soliciting public comment on the feasibility and flexibility of this restriction, to get a better idea of whether the 5-DAS minimum is appropriate. Under this proposed rule, there would be no maximum number of DAS a lessor could lease out to another vessel. Similarly, there would be no maximum number of DAS a lessee could receive. In addition, a lessor would be allowed to lease to multiple lessees, and a lessee could lease from multiple lessors. Vessel owners with more than one vessel with a valid limited access NE multispecies DAS permit would be allowed to lease NE multispecies DAS from one eligible vessel under their ownership to another, to allow the owner to optimize the number of DAS available for use by his/her vessels.

Adjustments to Leased DAS

Several of the stocks managed under the FMP are considered overfished. To

help ensure that fishing effort is not increased under the proposed Program, an adjustment factor would be applied to leased DAS when DAS are being leased from a smaller horsepower class vessel to a larger horsepower class vessel (that is, from a vessel with less fishing power to one with more fishing power). For the purposes of the Program, all limited access NE multispecies DAS permit holders would be classified according to the baseline horsepower associated with that permit as of April 24, 2003. Thus, if the lessee vessel were in a higher horsepower category than the lessor vessel, the lessee would receive a fraction of the DAS leased, based on the relative horsepower classes of the two vessels (see Table 3). Conversely, if the lessee vessel were in the same or a lower horsepower category than the lessor vessel, the lessee would be allowed to use the full amount of DAS leased.

TABLE 3. ADJUSTMENT FACTORS FOR DAS LEASES.

		Lessor Vessel (seller vessel) Horsepower Class					
		0–175	176–250	251–324	325–400	401–65	651 +
Lessee Vessel (buyer vessel) Horse-power Class	0–175	1.00	1.00	1.00	1.00	1.00	1.00
	176–250	0.80	1.00	1.00	1.00	1.00	1.00
	251–324	0.70	0.88	1.00	1.00	1.00	1.00
	325–400	0.58	0.73	0.83	1.00	1.00	1.00
	401–650	0.49	0.61	0.70	0.84	1.00	1.00
	651 +	0.36	0.45	0.52	0.62	0.74	1.00

For example, if Vessel A, a 176–250 horsepower class vessel, leases 10 NE multispecies DAS to Vessel B, a vessel in the 325–400 horsepower class, Vessel B would receive 7.3 DAS (10 \times 0.73). Using these same horsepower class vessels, if Vessel B leases 10 DAS to Vessel A, Vessel A would receive 10 DAS.

Leasing Restrictions for Hook-gear Permitted Vessels

This rule proposes that limited access NE multispecies Hook-gear permitted vessels (Category D) be allowed to lease NE multispecies to and from other limited access Hook-gear permitted vessels only. This restriction is being proposed because current regulations prohibit limited access Hook-gear permitted vessels from using gear other than hook-gear.

History of DAS Use and Landings

Because, in the future, DAS use and landing history may be used to determine fishing rights, the proposed Program includes provisions for how such history will be accounted for. For

ease of administration, under this proposed Program, history of leased DAS use would be presumed to remain with the lessor vessel, and landings resulting from the leased DAS use would be presumed to be attributed to the lessee vessel. However, the history of used leased DAS would be presumed to remain with the lessor only if the lessee actually fished the leased DAS in accordance with the DAS notification program specified at § 648.10. For purposes of DAS-use history, DAS allocated to the vessel would be considered to be the first DAS to be used, followed by the leased DAS. For example, if a vessel had an allocation of 50 DAS, leased an additional 20 DAS, and actually used a total of 60 DAS during the fishing year, the lessor of the 20 DAS would be attributed with 10 DAS, for purposes of its DAS-use history, because the lessee vessel would have used its 50 allocated DAS first, then 10 of the 20 DAS it acquired from the lessor.

Under the proposed Program, history of fish landings would be presumed to be attributed to the vessel that actually

landed the fish (lessee). Attributing landings history to the lessor would be inconsistent with the current vessel reporting system used for all other fisheries in the Northeast Region, and would be extremely difficult and costly for NMFS to implement.

In the case of multiple lessors, the leased DAS actually used would be attributed to the lessors based on the order in which such leases were approved by NMFS. For example, if lessee Vessel A has 50 allocated DAS, leases 10 DAS from lessor Vessel B on August 1, and leases another 10 DAS from lessor Vessel C on August 5, then the first 50 DAS used by lessee Vessel A during that fishing year would be attributed to lessee Vessel A, the next 10 DAS would be attributed to lessor Vessel B, and the next 10 DAS would be attributed to lessor Vessel C, for purposes of DAS-use history. If lessee Vessel A used only 60 DAS during the fishing year, then lessor Vessel C would not be attributed with DAS use for the DAS it leased to Vessel A during the fishing year for which the DAS were leased (these DAS could be attributed to