

Management Plan (FMP). This proposed rule would continue measures specified in the Settlement Agreement Among Certain Parties (Settlement Agreement), which were implemented as ordered by the U.S. District Court for the District of Columbia (Court) in a Remedial Order issued on May 23, 2002 (Order). These measures include: a freeze on days-at-sea (DAS) at the highest annual level used from fishing years 1996–2000 and a 20-percent cut from that level; a freeze on the issuance of new open access Hand-gear permits; gear restrictions; modifications and additions to closure areas; and restrictions on yellowtail flounder catch. In addition, this rule would implement a NE Multispecies DAS Leasing Program (Program), which is being proposed to mitigate impacts of these measures and to provide flexibility to some segments of the fishing industry. NMFS and two of the plaintiffs filed a motion with the Court requesting an extension of the August 22, 2003, implementation schedule until May 1, 2004. The Court granted an extension of the Court-ordered timeline for Amendment implementation until May 1, 2004. This emergency action is necessary to ensure that the regulations governing the NE multispecies fishery continue to be in compliance with the Court's Order.

DATES: Comments must be received no later than 5 p.m., local time, on May 27, 2003.

ADDRESSES: Written comments on the proposed emergency rule should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on the Proposed Emergency Rule for Groundfish." Comments also may be sent via facsimile (fax) to (978) 281–9135. Comments will not be accepted if submitted via e-mail or Internet.

Requirements should be sent to the Regional Administrator and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

Written comments regarding the proposed collection-of-information Copies of this proposed rule, including the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available upon request from the Regional Administrator. The EA/RIR/IRFA is also accessible via the Internet at <http://www.nero.nmfs.gov>.

FOR FURTHER INFORMATION CONTACT: Thomas Warren, Fishery Policy Analyst,

phone: 978–281–9347, fax: 978–281–9135; email: thomas.warren@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2002, in response to the Order issued by the Court, NMFS published an interim final rule (67 FR 50292) that implemented management measures intended to reduce overfishing on species managed under the FMP and to implement the measures contained in the Settlement Agreement. Measures implemented on August 1, 2002, included: A freeze on DAS based on the highest annual level used from fishing years 1996–2000 and reduced by 20-percent; a freeze on the issuance of new open access Hand-gear permits; increased gear restrictions for certain gear types, including gillnets, hook-gear and trawl nets; modifications and additions to the closure areas; and limits on yellowtail flounder catch.

The Order specified that the management measures implemented by the August 1, 2002, interim rule must remain in effect until implementation of Amendment 13 to the FMP. Amendment 13 was initially scheduled to be in effect no later than August 22, 2003. However, due to the need for additional time to address unanticipated concerns related to NMFS' Northeast Fisheries Science Center's trawl survey and the new biological reference points developed for the NE multispecies stocks, NMFS and two of the plaintiffs filed a motion with the Court requesting an extension of the August 22, 2003, implementation schedule until May 1, 2004. On December 4, 2002, the Court granted an extension of the Court-ordered timeline for Amendment 13 implementation until May 1, 2004.

On January 22, 2003, NMFS published a notice of continuation of regulations in the **Federal Register** to inform the public that NMFS was continuing the interim regulations for a second 180-day period (ending July 27, 2003). Under section 305(c)(3)(B) of the Magnuson-Stevens Act, interim regulations implemented under section 305(c) are limited to two, consecutive 180-day periods. The Court subsequently granted an extension of the original schedule for implementation of Amendment 13 to May 1, 2004. However, because the Settlement Agreement specifies that the current management measures must remain in effect until Amendment 13 is implemented, and because the second 180-day period for the interim regulations expires on July 27, 2003, there is insufficient time to implement an action to continue the interim measures under the Magnuson-Stevens

Act, except through the Secretary's emergency authority under section 305(c) of the Magnuson-Stevens Act.

In addition to continuing the August 1, 2002, measures specified in the Settlement Agreement and Order, NMFS proposes to implement a DAS leasing program under its emergency action authority (305(c) of the Magnuson-Stevens Act and 62 FR 44421, August 21, 1997) in order to mitigate the potential harm resulting from the continuation of the August 1, 2002, interim final rule measures. This proposed emergency rule would implement a DAS Leasing Program that would allow limited access NE multispecies vessels to lease their NE multispecies DAS. This Program would alleviate some of the negative economic and social impacts resulting from the reduced DAS allocations that would be continued as a result of this proposed rule. The Program would be designed to maintain conservation neutrality, i.e., maintain groundfish fishing effort close to the level that would be fished under the current management measures in the absence of a DAS Leasing Program.

Management Measures

This proposed rule would implement (i.e., continue) the following management measures, effective July 28, 2003, which are intended to reduce overfishing on all regulated species managed under the FMP, and to reduce the negative economic impact of the current DAS allocations.

Regulated Mesh Areas (RMAs)

This proposed rule would continue the RMAs established by the August 1, 2002, interim rule for the Gulf of Maine (GOM), Georges Bank (GB), Southern New England (SNE) and Mid-Atlantic (MA) RMAs. The GOM RMA is the area north of the GOM cod exemption line, which is currently used to define the areas where the GOM cod and GB cod trip limits apply, and the GB RMA lies south of the GOM cod exemption line, and continues south to the EEZ for the areas east of 69° 00' W. long. The SNE RMA would be defined as the area west of the GB RMA and east of a line beginning at the intersection of 74° 00' W. long. and the south-facing shoreline of Long Island, NY, and running southward along the 74° 00' W. long. line. The MA RMA would be defined as the area west of the SNE RMA. Specific management measures would apply, depending on the area fished. For the purposes of the exempted fishery programs already implemented under the FMP, the GOM/GB and SNE RMAs, as defined under Amendment 7 to the