

the FMP until May 1, 2004. Amendment 13 will put in place long-term measures to end overfishing and rebuild multispecies stocks. This emergency rule is necessary to ensure that there exist measures to reduce overfishing until implementation of Amendment 13.

DATES: Effective July 28, 2003.

ADDRESSES: Written comments regarding the approved collection-of-information requirements should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer). Copies of this final emergency rule, including the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) are available upon request from the Regional Administrator. The EA/RIR/FRFA 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

A proposed emergency rule for this action, requesting public comment, was published on April 24, 2003 (68 FR 20096), and subsequently corrected on May 9, 2003 (68 FR 24914), that would continue measures implemented on August 1, 2002, consistent with the Settlement Agreement, which was ordered to be implemented by the Court in a Remedial Order (Order) issued on May 23, 2002, as a result of *Conservation Law Foundation, et al. v. Evans, et al.* In addition to containing the interim measures implemented on August 1, 2002, consistent with the Settlement Agreement, which are being implemented through this final emergency rule, the proposed emergency rule contained a program that would allow limited access NE multispecies vessels to lease DAS. Due to the newness and potential controversiality of the DAS Leasing Program and its implications, NMFS extended the comment period through June 10, 2003, on the DAS leasing aspect of the proposed emergency rule only (68 FR 28188; May 23, 2003). This final emergency rule implements many of the same measures implemented through the August 1, 2002, interim final rule with some modifications in response to public comment, and does not implement the DAS Leasing

Program. If the DAS Leasing Program is approved, a separate final rule will be published to implement that program.

Pursuant to the Court's Order, NMFS published an interim final rule (67 FR 50292) on August 1, 2002, which implemented management measures consistent with the Settlement Agreement that intended to reduce overfishing on species managed under the FMP. Measures implemented on August 1, 2002, included: A freeze on DAS based on the highest annual level used from fishing years 1996-2000, 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; limits on yellowtail flounder catch; a reduction in the haddock trip limit for open access Handgear vessels; a haddock trip limit for charter/party vessels fishing in the Gulf of Maine (GOM); and an increase in minimum haddock size for private recreational and party/charter vessels.

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 in the **Federal Register** informing 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. Thus, in order to comply with the Court Order to maintain the short-term measures until implementation of Amendment 13, the Secretary is implementing this final emergency rule under 305(c) of the Magnuson-Stevens Act.

This final emergency rule implements many of the same measures contained in the interim final rule published on August 1, 2002, as described below, with slight modifications to measures pertaining to haddock size and possession limits for recreational, party/charter, and open access Handgear vessels. As acknowledged in the Settlement Agreement, the Secretary maintains the discretion to modify measures contained therein. NMFS determined that slight modifications to certain haddock specific measures are justified due to the unique circumstances of the haddock fishery, including, the fact that overfishing is not occurring in the haddock fishery, the disproportionate haddock restrictions among different sectors of the fishery, and the potential for lowering discarded bycatch of haddock. Fishing mortality on haddock in the 2002 fishing year continued at a level well below the level necessary to ensure rebuilding of the stock within the timeframes specified in the Magnuson-Stevens Act. In response to this low level of fishing mortality, NMFS has relieved certain haddock trip limits during the 2002 fishing year (67 FR 45401; July 9, 2002), on commercial limited access multispecies vessels as allowed for in the multispecies regulations. Public comments for this proposed action pointed out that other fishing sectors fishing for haddock did not receive the same consideration with respect to haddock restrictions. This emergency rule significantly reduces these disproportionate haddock restrictions without jeopardizing the objective of preventing overfishing on haddock. Even though NMFS received public comments requesting modifications to other measures, NMFS determined that the changes to the haddock measures were the only appropriate ones because they apply to haddock only and the analysis in the EA demonstrates that these measures will not have a detrimental effect on haddock or any other multispecies stock. Moreover, these changes were designed to limit the changes to a return to haddock restrictions in effect before implementation of the August 1, 2002, interim regulations. These unique circumstances do not exist for implementing any other suggested modifications affecting other stocks of multispecies. The measures being implemented by this final emergency rule are described below.

Regulated Mesh Areas (RMAs)

This action continues the RMAs established by the August 1, 2002, interim rule for the Gulf of Maine