

under a NE multispecies DAS. Table 2 summarizes the party/charter and private recreational sector measures.

TABLE 2. CHARTER/PARTY AND PRIVATE RECREATIONAL FISHING MEASURES.

	Minimum Fish Size ¹	Bag Limit (combined)	GOM Closure Exemption Authorization
Charter/party not on a NE multispecies DAS	haddock 21 (52.5 cm) ... cod 23 (57.5 cm) ...	<i>April-November:</i> 10 cod ² <i>December-March</i> 5 cod ²	A minimum of 3 months, or duration of closure
Private Recreational	haddock 21 (52.5 cm) ... cod 23 57.5 cm)	<i>Areas outside of GOM RMA:</i> 10 cod/haddock <i>GOM RMA:</i> 10 cod/haddock, no more than 5 which can be cod, Dec.-Mar.	N/A N/A

¹ All other minimum fish sizes remain unchanged.

² When fishing in the GOM RMA.

Observer Coverage

NMFS was ordered by the Court to expand its observer coverage for all gear sectors in the NE multispecies fishery by providing 5-percent coverage, or higher, if statistically necessary to monitor and collect information on bycatch, as well as other biological and fishery-related information. Additionally, NMFS was ordered, by May 1, 2003, to expand further its observer coverage to 10 percent for all gear sectors, or that level necessary to provide statistically reliable data. NMFS has determined, based upon internal agency decision-making, that 5-percent observer coverage would provide sufficiently robust statistical data to assess the amount and type of bycatch in the NE multispecies fishery. This conclusion is based upon an analysis of the relative precision of discard estimates of 17 groundfish stocks, using observer coverage and landings data for the year 2000 (Northeast Fisheries Science Center, 2003), and NMFS has therefore implemented this level of observer coverage in the NE multispecies fishery.

Other Modifications to Regulations

For the 2002 fishing year, vessels electing a Day or Trip gillnet designation were allowed to change their designation prior to September 1, 2002, because the interim final rule was implemented during the middle of the fishing season. This exemption was only necessary for the 2002 fishing year and, therefore, is not included in this final emergency rule. In the August 1, 2002 interim rule, the Cashes Ledge Area Closure regulations inadvertently omitted a reference to transiting, under a listing of allowable exemptions to the closure. The relevant reference is added by this final emergency rule.

Comments and Responses

A total of 76 comments were received on the proposed emergency rule that pertain to the management measures specified by the Settlement Agreement. Because management measures contained in this final emergency rule are being implemented as a result of a negotiated Settlement Agreement and a Court Order, NMFS has limited discretion to alter the measures that were published in the August 1, 2002, interim rule.

Comment 1: Sixty-nine commenters from the charter/party and private recreational sectors commented on the haddock restrictions implemented under the August 1, 2002, interim final rule and that were proposed to continue under this final emergency rule. Specifically, the commenters noted the disparity between the substantially higher haddock trip limits associated with the NE multispecies DAS limited access vessels and the lower trip limits associated with the charter/party and private recreational vessels. Some commenters stated that the difference in trip limits between the two sectors was not justified in light of the relatively small amount of haddock landed by the private recreational and charter/party sectors in comparison to the commercial DAS sector. They believe that the disparity in trip limits is unfair, and cited National Standard 4, which requires that assignment of fishing privileges among fishermen be fair and equitable.

Thirty-seven commenters from the charter/party or private recreational sectors suggested that haddock should be removed from the combined cod/haddock trip limit, which would result in a bag limit of 10 cod. Three commenters believed that the limit should be 20 cod/haddock combined, and one commenter thought that the bag limit should be five for haddock. Two

commenters stated that the haddock stock does not need the protection provided by the 10- haddock bag limit, and one commenter requested an explanation of why the recreational haddock catch should be restricted at all. One commenter stated that other factors such as the amount of free time available for fishing and weather, were more important determinants to overall levels of recreational catch than bag limits.

Response: The fact that a trip limit is different for various sectors of the groundfish fishery does not necessarily make those trip limits unfair. However, in this situation, the changes to the recreational sector regulations, when compared to the commercial sector regulations, created an unfair situation. Low numbers of haddock landings reported by private recreational and party/charter fishers, as indicated by the Marine Recreational Fisheries Statistics Survey and Vessel Trip Reports (VTR), supports the assertion that the total amount of haddock landed by the recreational and charter party sectors is small relative to the amount of haddock landed by the commercial sector.

Comparison of the most recent estimate of fishing mortality on the GOM stock of haddock with the recent estimate of the fishing mortality rate associated with maximum sustainable yield (Fmsy), indicates that fishing mortality could increase substantially over current levels. An increase in fishing mortality will not undermine the ability of the stock to rebuild within the timeframe required by the Magnuson-Stevens Act. In light of the current status of the haddock stocks, the current trip limit in effect for the NE multispecies limited access DAS vessels, the negative economic impacts that may have resulted from the 10 cod/haddock combined trip limit (see response to comment 2), and the