

potential impact on discarding bycatch of haddock, a charter/party haddock bag limit is not necessary, and has therefore been removed under this final emergency rule. With respect to private recreational vessels, the haddock bag limit was unchanged by the Settlement Agreement and is, therefore, not changed by this final emergency rule. These changes make the haddock measures more consistent with National Standard 4.

*Comment 2:* Thirty-six commenters from the charter/party sector commented that the haddock size and trip limit restrictions that have been in effect since August 2002, and that were proposed to continue under this emergency action, have made customers reluctant to sign up for charter/party trips or caused trip cancellations. According to the commenters, this has resulted in about a 50-percent reduction in the number of trips and, thus, has created economic hardship for this sector of the fishing industry. One commenter predicted that relaxation of the haddock limits would have positive effects on businesses that rely on the recreational fishery (e.g., lodging, food, and tackle).

Sixty-five commenters from the charter/party and private recreational sectors commented on the haddock minimum size restriction, recommending that the minimum size be reduced to 19 or 21 inches (47.5 or 52.5 cm, respectively). The rationale provided was that few haddock reach 23 inches (57.5 cm), that the recreational size limit should be the same as the commercial size limit, and that culling of undersized fish (discarding) represents a waste of a valuable resource that results in increased fishing mortality on the stock. One commenter supported the current 23-inch (57.5-cm) minimum length for cod.

*Response:* NMFS agrees that fish size and trip limit restrictions on haddock, coupled with the size and trip limit restrictions on cod for the charter/party sector, may have been a factor in the decrease in the number of charter/party trips. Relaxation of the haddock restrictions may benefit the charter/party fishery and businesses that rely on the charter/party fishery, while not having a negative impact on the haddock resource, but restrictions on the GOM stock of cod are necessary in order to reduce overfishing. Prior to the Settlement Agreement, the minimum fish size limit for the private recreational and party/charter fisheries for both cod and haddock was 21 inches (52.5 cm). Reduction of the haddock minimum length restriction to 21 inches (52.5 cm) would decrease haddock

bycatch mortality by enabling fishers to keep some fish that they would otherwise be required to discard. Given this, and the current relatively low level of fishing mortality on haddock, this final emergency rule reduces the haddock minimum size restrictions for both the private recreational and charter/party vessels to 21 inches (52.5 cm), the minimum fish size regulation that was in effect prior to the Settlement Agreement.

*Comment 3:* Eight commenters did not support the more restrictive cod limits in December through March because they believe business was hurt by the low limit, that five fish are not worth the risks associated with winter fishing, and that the restriction amounts to a GOM closure for party/charter and private recreational vessels.

*Response:* NMFS continues to believe that the GOM bag limit of five cod during December through March for the private recreational and charter/party sectors is justified due to the need for a substantial reduction in fishing mortality for the GOM stock of cod. Data suggest that the majority of charter/party catch of cod occurs from November through April. Maintaining the five-cod bag limit from December through March will, therefore, afford continued needed protection for this stock, which is overfished.

*Comment 4:* One commenter stated that the proposed rule would not impose a seasonal bag limit on recreational cod caught on GB, despite the fact that the GB stock of cod is at a low level. The commenter believed this was justification for removal of the seasonal recreational bag limit (five cod in December through March) on GOM cod.

*Response:* A GB charter/party bag restriction for cod was not an alternative contained in the proposed rule or analyzed in the EA for this emergency action. Therefore, there is not a sufficient justification in the record to support implementation of such measures.

*Comment 5:* The State of Massachusetts Division of Marine Fisheries and the Associated Fisheries of Maine indicated that the limitations on the number of gillnets allowed for vessels with a Trip gillnet designation disadvantages that sector of the fishery, and suggested that the 150-net restriction either be eliminated, or that the 150-net limit apply everywhere, and not only to the GOM RMA. The commenters noted that the number of nets that can be safely carried on board the vessel is limited by the size of the vessel, and that access to pollock and haddock is restricted. One commenter

suggested that a limit of 75 nets be set for both Day and Trip gillnet vessels, that the flatfish net restriction in the GOM be removed, and that the day vessels have a 6.5-inch (16.3-cm) requirement year round.

*Response:* Several stocks of groundfish in the GOM and GB RMAs require significant mortality reductions, and the gillnet restrictions were part of the measures designed to reduce overfishing because such gear is extensively used in the areas where reductions are needed. NMFS agrees that a subset of the gillnet fishery will be affected by both types of gillnet restrictions (mesh size and maximum number of nets). Although the aggregate reduction in groundfish landings that may be attributed to the gear restrictions imposed on gillnet vessels is relatively small (e.g., 2.6 percent for GOM cod), such restrictions have the potential to achieve important reductions in fishing mortality on several stocks, particularly cod and yellowtail flounder, which are overfished. Although, the complexity of the management measures makes it difficult to compare precisely the impacts of all regulations across gear sectors, the EA concludes that the Preferred Alternative would not result in disproportionate impacts among gear groups. Therefore, this final emergency rule does not modify the gillnet restrictions that were part of the Settlement Agreement. Amendment 13 to the FMP will reassess the continuation of these measures.

*Comment 6:* One commenter stated that the haddock trip limit associated with the open access Handgear permit category is not fair, given the more liberal haddock trip limit rules that the NE multispecies DAS vessels have been fishing under, and therefore should be removed. The commenter recommended that the cod and yellowtail flounder trip limits be set at the levels existing prior to implementation of the Settlement Agreement.

*Response:* In light of the current fishing mortality rate on the haddock stocks, the limit in effect for the NE multispecies limited access vessels concurrent with the implementation of the Settlement Agreement, the negative economic impacts that may have resulted from the 200-lb (90.7-kg) haddock trip limit, and the potential to reduce discarding, this final emergency rule increases the trip limit for the open access Handgear permitted vessels to 300 lb (136.1 kg) of cod, haddock, and yellowtail flounder, combined, no more than 200 lb (90.7 kg) of which, may consist of cod and yellowtail, combined. Maintenance of the 200-lb (90.7-kg) maximum for cod and yellowtail