

implemented by this final emergency rule.

In § 648.82, the proposed removal of paragraph (l)(3) is rescinded.

In § 648.82, proposed paragraph (m) is removed to reflect that the DAS Leasing Program is not being implemented by this final emergency rule.

In § 648.88, paragraph (a)(1) is modified to reflect that the NE multispecies open access Handgear permit category possession limit has changed in response to public comment, as described in the response to comment 6.

In § 648.89, paragraphs (b)(1) and (c)(2)(i) and (ii), the recreational cod and haddock minimum sizes and the charter/party haddock bag limit, respectively, are modified in response to public comment, as described in the response to comments 1 and 2.

In § 648.92(b)(2), the proposed modifications to monkfish DAS restrictions are removed to reflect that the DAS Leasing Program is not being implemented by this final emergency rule.

Classification

This rule has been determined to be significant for purposes of Executive Order 12866.

Final Regulatory Flexibility Analysis

NMFS prepared a FRFA that analyzes the potential economic impacts of the final rule on small commercial fishing entities. The proposed emergency rule was published in the **Federal Register** on April 24, 2003. A copy of the Initial Regulatory Flexibility Analysis (IRFA) is available from the Regional Administrator (see **ADDRESSES**). Changes to the emergency proposed rule were made as a result of comments, as explained in the responses to comments 1, 2, and 3, and to reflect that the DAS Leasing Program was removed from this final emergency rule. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of the preamble, in the SUMMARY, and in the FRFA. Gross revenue, in the absence of reliable cost data, is considered to be a proxy for profitability. A summary of the analysis follows:

The FRFA considered three alternatives: The Preferred Alternative, the No Action Alternative, and a Hard TAC Alternative. Analysis of the Preferred Alternative examined the impacts on industry that would result from the continuation of the current management measures (Settlement Agreement), with modifications to the haddock measures. Analysis of the No Action Alternative examined the

impacts on industry that would result from implementation of the management measures that were in place for the 2001 fishing year (prior to implementation of the Court Order) and allowing fishing inside the WGOM Area Closure. Analysis of the Hard TAC Alternative examined the impacts to the industry that would result from a hard TAC system that achieved similar fishing mortality reductions as the Preferred Alternative. The economic impacts of the first two alternatives were analyzed and described according to the type of management measure as follows: (a) Commercial measures that were modeled (DAS restrictions, area closures, and trip limits); (b) commercial measures that were not modeled (changes to the open access hand gear category, prohibition on frontloading, prohibition on de-hooker use, mesh size restrictions, and limitations on the number of gillnets and hooks); and (c) recreational measures (private recreational vessel and party/charter). The Hard TAC Alternative is a fundamentally different type of management scheme and the economic impacts were examined in a qualitative manner because this fishery has not operated under Hard TAC system and therefore, there is insufficient data to provide a quantitative assessment of the economic impacts.

A total of seventy-six comments were received on the proposed emergency rule. Of these comments, fifty-eight addressed the economic impacts of the proposed measures. The principal concerns were the private recreational and party/charter haddock and cod restrictions, the haddock restrictions for the open access Handgear permit category, the limitations on the number of gillnets allowed, the boundary of the SNE RMA, and the DAS baseline calculation.

Forty-three comments addressed the economic impacts of the proposed charter/party and private recreational haddock regulations, and one comment addressed the economic impacts of the recreational measures on businesses related to the recreational fishery. According to the commenters, the haddock size and trip limit restrictions that have been in effect since August 2002, and that will continue under this final emergency rule, have made charter/party customers reluctant to sign up for trips or have caused trip cancellations resulting in about a 50-percent reduction in the number of trips and concomitant reduction in gross receipts. This rule restores the minimum size limit for haddock to 21 inches (52.5–cm) for recreational and

party/charter vessels and restores the no haddock trip limit measure for party/charter vessels. Relaxation of the haddock restrictions may provide additional revenue for the charter/party fishery and businesses that rely on the charter/party fishery by allowing increased catch and resulting in a greater number of trips. Response numbers one and two in the comments and responses section of this rule address these issues.

Five comments addressed the economic impacts of the proposed charter/party and private recreational cod regulations. Commenters believe that the five cod limit in combination with the haddock restrictions has discouraged customers from taking trips. Although the cod trip limit in the GOM may be a disincentive for fishers to book charter/party trips, relaxation of the cod limit is not justified due to the need to reduce fishing mortality on the GOM cod stock. The relaxation of the haddock limit by this rule may mitigate some of the economic impact of the continuation of the cod trip limit. Response number three in the comments and responses section of this rule addresses this concern.

Four comments were received relative to the impacts of the net limits for the Trip gillnet category. The commenters stated that the limitations on the number of gillnets allowed for vessels with a Trip gillnet designation disadvantages that sector of the fishery. This final emergency rule implements gear restrictions on all the limited access sectors. Although the EA estimates that the gear limitations will reduce gross revenues for 24 trip vessels, it concludes that the Preferred Alternative would not result in disproportionate impacts among gear groups. Consistent with the Settlement Agreement as order to be implemented by the Court, the continuation of the Trip gillnet restrictions is justified because of the potential for these restrictions to achieve important reductions in fishing mortality and is, therefore, unchanged by this rule. Response number five in the comments and responses section of this rule addresses this issue.

One commenter stated that the haddock trip limit associated with the open access Handgear permit category is unfair, and should be increased to 300 lb (136.1–kg). This rule restores the haddock trip limit for this sector resulting in increased gross revenues from an increase in the amount of haddock retained for sale. Response number six in the comments and response section addresses this comment.