

setting method minimizes impacts to small entities because it enables the NEFMC and MAFMC to increase the target TAC in response to an increase in monkfish stock biomass, in the absence of a reliable estimate of fishing mortality (F), but with a cap on that increase. Because the monkfish stocks in both management areas are behind in their respective rebuilding schedules, this action will reduce the target TACs in both management areas, resulting in reductions in trip limits and DAS available to vessels that fish in the SFMA. Therefore, because Framework 2 established methods for calculating annual target TACs, trip limits, and DAS restrictions, there are no alternatives to the target TACs, trip limits, and DAS restrictions being implemented for FY 2006 under this annual adjustment process.

Framework 2 considered other alternatives to the formulaic method that was chosen to establish annual TACs for monkfish. The annual target TAC setting method established in Framework 2 compares annual biomass targets with a 3-year running average of the NMFS fall trawl survey. If the trawl survey biomass index is less than the annual target, as is the case for FY 2005, the target TAC in the subsequent year (FY 2006) is set to equal the monkfish landings for the previous fishing year (FY 2004), minus the percentage difference between the 3 year average biomass index and the annual index target (see Table 1). Another option considered in Framework 2 would have compared the current F in relation to Fthreshold for establishing annual target TACs. This option was determined to be unreasonable because current estimates of F are too imprecise to set target TACs and make a status determination regarding overfishing.

**Small Entity Compliance Guide**

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide was prepared. The guide will be sent to all vessels issued a limited access monkfish permit, and to all Federal dealers issued a monkfish permit. In addition, copies of this final rule and guide (i.e., permit holder letter)

are available from the Regional Administrator (see **ADDRESSES**) and are also available at the following web site: <http://www.nero.noaa.gov>.

**List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 20, 2006.

**William T. Hogarth,**  
*Assistant Administrator for Fisheries,*  
*National Marine Fisheries Service.*

■ For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

**PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES**

■ 1. The authority citation for part 648 continues to read as follows:

*Authority:* 16 U.S.C. 1801 *et seq.*

■ 2. In § 648.92, paragraph (b)(1)(ii) is added to read as follows:

**§ 648.92 Effort-control program for monkfish limited access vessels.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) FY 2006 DAS restrictions for vessels fishing in the SFMA. For the 2006 fishing year, limited access monkfish vessels are restricted to utilizing only 12 of their 40 monkfish DAS allocation in the SFMA. If a vessel does not possess a valid letter of authorization from the Regional Administrator to fish in the NFMA as described in § 648.94(f), NMFS will presume that any monkfish DAS used was fished in the SFMA.

\* \* \* \* \*

■ 3. In § 648.94, paragraphs (b)(2)(i) and (ii) are revised to read as follows:

**§ 648.94 Monkfish possession and landing restrictions.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) *Category A, C, and G vessels.*

Category A, C, and G vessels fishing under the monkfish DAS program in the SFMA may land up to 550 lb (249 kg) tail weight or 1,826 lb (828 kg) whole weight of monkfish per monkfish DAS (or any prorated combination of tail-weight and whole weight based on the conversion factor for tail weight to whole weight of 3.32), unless modified pursuant to § 648.96(b)(2)(ii).

(ii) *Category B, D, and H vessels.*

Category B, D, and H vessels fishing under the monkfish DAS program in the SFMA may land up to 450 lb (204 kg) tail weight or 1,494 lb (678 kg) whole weight of monkfish per monkfish DAS

(or any prorated combination of tail-weight and whole weight based on the conversion factor for tail weight to whole weight of 3.32), unless modified pursuant to § 648.96(b)(2)(ii).

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 060216045-6045-01; I.D. 041906C]

**Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is closing directed fishing for yellowfin sole by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal allowance of the 2006 halibut bycatch allowance specified for the trawl yellowfin sole fishery category in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), April 20, 2006, through 1200 hrs, A.l.t., May 21, 2006.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The second seasonal allowance of the 2006 halibut bycatch allowance specified for the trawl yellowfin sole fishery category in the BSAI is 195 metric tons as established by the 2006 and 2007 final harvest specifications for groundfish in the BSAI (71 FR 10894, March 3, 2006).

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS, has determined that the second seasonal allowance of the 2006 halibut bycatch allowance specified for the trawl yellowfin sole fishery category in the BSAI has been caught. Consequently, NMFS is closing directed fishing for yellowfin sole by vessels using trawl gear in the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### **Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant

Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for yellowfin sole by vessels using trawl gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 19, 2006.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: April 19, 2006.

**James P. Burgess,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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