

internal uses only. The Commission does not currently have sufficient information to determine the number of small entities that may be affected. The Commission invites comment and information on this issue.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

The Rule does not directly impose any "reporting" or "recordkeeping" requirements within the meaning of the Paperwork Reduction Act, but does require that operators make certain third-party disclosures to the public, *i.e.*, provide parents with notice of their privacy policies. The proposed amendment to make permanent the sliding scale mechanism for obtaining parental consent would not impose any additional reporting, recordkeeping, or other compliance requirements. In addition, the amendment would not affect the costs of complying with the Rule because it is merely extending a sliding scale mechanism that is already in place and that enables qualified website operators to obtain parental consent through lower-cost email-based means.

E. Duplicative, Overlapping, or Conflicting Federal Rules

The Commission has not identified any other federal statutes, rules, or policies that duplicate, overlap, or conflict with the proposed amendment to the Rule. The Commission invites comment and information on this issue.

F. Significant Alternatives to the Proposed Amendment to the Rule

Under the proposed amendment to the Rule, subject operators will continue to be able to choose email-based methods of obtaining parental consent instead of having to rely solely on the more costly methods. Therefore, the proposed amendment actually permits greater flexibility for small entities than would allowing the sliding scale to expire in April 2005. A delayed effective date was not considered here, because the regulatory uncertainty resulting from such a delay would not benefit small entities.

The Commission invites comment and information on the economic impact of the proposed amendment on small entities, including significant alternatives, if any, to the proposed amendment that would result in greater flexibility for small businesses, while meeting the objectives and requirements of COPPA and the Rule. After considering such comments, if any, the Commission will determine whether preparation of a final regulatory

flexibility analysis (pursuant to 5 U.S.C. 605) is required.

List of Subjects in 16 CFR Part 312

Children, Communications, Consumer protection, Electronic mail, E-mail, Internet, Online service, Privacy, Record retention, Safety, Science and technology, Trade practices, Website, Youth.

Accordingly, for the reasons stated in the preamble, the Federal Trade Commission proposes to amend 16 CFR Part 312 as follows:

PART 312—CHILDREN'S ONLINE PRIVACY PROTECTION RULE

1. The authority citation for Part 312 continues to read as follows:

Authority: 15 U.S.C. 6501 *et seq.*

2. Amend § 312.5 by revising the second sentence of paragraph (b)(2) to read as follows:

§ 312.5 Parental consent.

* * * * *

(b) * * *

(2) * * * *Provided that:* Methods to obtain verifiable parental consent for uses of information other than the "disclosures" defined by § 312.2 may also include use of e-mail coupled with additional steps to provide assurances that the person providing the consent is the parent. * * *

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 05-877 Filed 1-13-05; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF EDUCATION

34 CFR Part 230

RIN 1855-AA04

Innovation for Teacher Quality

AGENCY: Office of Innovation and Improvement, Department of Education.
ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes regulations prescribing criteria to be used in selecting eligible members of the Armed Forces to participate in the Troops-to-Teachers program and receive financial assistance. These proposed regulations would implement section 2303(c) of the Elementary and Secondary Education Act of 1965 (the Act), as amended by the No Child Left Behind Act of 2001 (NCLB). The proposed regulations also would define the terms "high-need local educational

agency" and "public charter school" in which a participant must agree to be employed under section 2304(a)(1)(B) of the Act, as amended by the NCLB.

DATES: We must receive your comments on or before February 14, 2005.

ADDRESSES: Address all comments about these proposed regulations to Thelma Leenhouts, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W302, FOB6, Washington, DC 20202-6140. If you prefer to send your comments through the Internet, you may address them to us at the U.S. Government Web site: <http://www.regulations.gov>.

Or you may send your Internet comments to us at the following address: comments@ed.gov.

You must include the term "Troops program" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Thelma Leenhouts. Telephone: (202) 260-0223 or via Internet: thelma.leenhouts@ed.gov.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments regarding these proposed regulations. To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed regulations in room 4W306, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern

time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

These proposed regulations would implement section 2303(c) of Title II, Part C, Subpart 1, Chapter A of the Act, as amended by the NCLB (Pub. L. 107-110), enacted January 8, 2002. Subpart 1, Transitions to Teaching, of Chapter A authorizes the Troops-to-Teachers program. Under this program, the Secretary of Education transfers funds to the Department of Defense for the Defense Activity for Non-Traditional Education Support (DANTES) to provide assistance, including stipends of up to \$5,000, to eligible members of the Armed Forces so that they can obtain certification or licensing as elementary school teachers, secondary school teachers, or vocational/technical teachers and become highly qualified teachers by demonstrating competency in each of the subjects they teach. In addition, the program helps these participants find employment in high-need local educational agencies (LEAs) or public charter schools, and participants agree to teach in these LEAs or public charter schools for at least three years.

Section 2303(d) of the Act, as amended by the NCLB, requires the Secretary, in selecting eligible service members, to give priority to members with educational or military experience in science, mathematics, special education, or vocational and technical education who agree to seek employment teaching those subjects. In addition, section 2303(c)(1) directs the Secretary to prescribe criteria to be used to select eligible members of the Armed Forces to participate in the program. These proposed regulations would implement the statutory directive in section 2303(c)(1) and provide a binding interpretation to resolve an ambiguity in the statute regarding the definition of a high-need LEA and public charter school.

These proposed regulations were developed in consultation with

DANTES, which administers the Troops-to-Teachers program under a memorandum of agreement with the Department of Education.

Significant Proposed Regulations

We discuss substantive issues under the sections of the proposed regulations to which they pertain.

Section 230.1 What Is the Troops-to-Teachers Program?

Statute: The Act, as amended by the NCLB, provides for the Secretary of Education to transfer funds to DANTES to provide assistance, including stipends of up to \$5,000, to an eligible member of the Armed Forces so that he or she can obtain certification or licensing as an elementary school teacher, secondary school teacher, or vocational/technical teacher and become a highly qualified teacher by demonstrating competency in each of the subjects he or she teaches. In addition, the statute provides for the Secretary to assist eligible members of the Armed Forces in finding employment in a high-need LEA or public charter school. It further provides that DANTES may pay bonuses in lieu of stipends to participants who agree to teach in high-poverty schools.

Proposed Regulations: Section 230.1 provides a general description of the Troops-to-Teachers program.

Reasons: The proposed regulation provides context for the proposed regulations that follow it.

Section 230.2 What Definitions Apply to the Troops-to-Teacher Program?

Statute: Section 2303(c)(1) of the Act, as amended by the NCLB, directs the Secretary to prescribe criteria for the selection of eligible members of the Armed Forces to participate in the Troops-to-Teachers program and receive financial assistance to become certified teachers. Section 2304(a)(1)(B) of the Act, as amended by the NCLB, requires program participants to enter into a participation agreement with the Secretary in which they agree, among other things, to accept an offer of full-time employment as an elementary school teacher, secondary school teacher, or vocational/technical teacher for not less than three school years with a high-need LEA or public charter school as such terms are defined in section 2101 of the Act. However, the statute's reference to section 2101 is clearly erroneous since the latter section describes the purpose of Title II, Part A and does not contain any definitions. Under these circumstances, there is ambiguity in the statute, which the

Secretary is proposing to resolve through this rulemaking proceeding.

Proposed Regulations: Section 230.2 of the proposed regulations would define the term "high-need local educational agency" as used in section 2304(a)(1)(B) to mean an LEA: (1) That serves not fewer than 10,000 children from families with incomes below the poverty line; or (2) for which not less than 20 percent of the children served by the agency are from families below the poverty line; or (3) for which not less than 15 nor more than 19 percent of the children served by the agency are from families below the poverty line and that assigns all teachers receiving financial assistance through the Troops-to-Teachers program to high-need schools, as defined in section 2304(d)(3) of the Act, as amended by the NCLB.

The proposed regulation would also define "public charter school" to mean a charter school as defined in section 5210(1) of the Act, as amended by the NCLB.

Reasons: The proposed regulation would cure the absence of a definition for two terms, "high-need local educational agency" and "public charter school", caused by the faulty reference to section 2101 of the Act, which contains no definitions.

The Act contains a definition of high-need LEA, but it is limited in application to certain provisions of Title II, specifically part A governing the Teacher and Principal Training and Recruitment Fund; part A, subpart C governing National Activities; and part C, subpart I, chapter B governing the Transition to Teaching Program. Specifically, section 2102(3) of the Act defines high-need LEA to mean: Those serving no fewer than 10,000 children from families with incomes below the poverty line, or those for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line; and for which there is a high percentage of (1) teachers not teaching in the academic subjects or grade levels that they were trained to teach, or (2) teachers with emergency, provisional, or temporary certification or licensing. The Secretary considers this definition to be unsuitable for the Troops-to-Teachers program because prior experience with job placements under the Troops-to-Teachers program indicates that it is too restrictive to permit the recruitment of eligible members of the Armed Forces to the program at an optimal level. Use of this definition results in a universe of agencies that is insufficiently broad to permit participants some reasonable degree of choice in employment opportunities that will satisfy their

three-year teaching commitments. Accordingly, to resolve the ambiguity in the statute, the Secretary is proposing to define “high-need local educational agency”, as used in section 2304(a)(1)(B), to mean an LEA: (1) That serves not fewer than 10,000 children from families with incomes below the poverty line; or (2) for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line; or (3) for which not less than 15 nor more than 19 percent of the children served by the agency are from families with incomes below the poverty line and that assigns all teachers funded by the Troops-to-Teachers program to high-need schools, as defined in section 2304(d)(3) of the Act.

This definition is intended to balance the need to provide program participants with reasonable opportunities to satisfy their teaching commitments under the program and the need to target recruitment assistance to LEAs with the greatest need for that assistance.

The definition of charter schools pertaining to Charter School Programs in section 5210(1) of the Act is appropriate for purposes of the Troops-to-Teachers program; consequently, the proposed regulation would incorporate that definition for the term “public charter school.”

Section 230.3 What Criteria Does the Secretary Use To Select Eligible Participants in the Troops-to-Teacher Program?

Statute: Section 2303(c)(1) of the Act directs the Secretary to prescribe criteria for the selection of eligible members of the Armed Forces (service members) to participate in the Troops-to-Teachers program.

Proposed Regulations: Section 230.3 would establish the order of priority for selection and funding of eligible service members who enter into a participation agreement, as provided by section 2304 of the Act, to teach in a high-need LEA or a public charter school for at least three years. The Secretary would give first priority to all eligible individuals not presently in the teaching profession. Within that category of candidates, candidates would be selected in the following order of preference: (1) Individuals who will both obtain certification to teach science, mathematics, or special education and teach in high-need schools (as defined in section 2304(d)(3) of the Act); (2) individuals who will obtain certification to teach other subjects and will teach in high-need schools; (3) individuals who will obtain certification to teach science,

mathematics, or special education or obtain certification to teach at the elementary level without committing to teach in a high-need school; and (4) individuals who will obtain certification in a subject other than science, mathematics and special education and will teach at the secondary level without committing to teach in a high-need school.

After all eligible first-priority participants new to teaching are selected, the Secretary would give priority to all eligible service members currently employed as teachers who enter into a participation agreement as provided by section 2304 of the Act. These candidates would be selected in the following order of preference: (1) Individuals who will obtain certification to teach science, mathematics, or special education and teach in high-need schools (as defined in section 2304(d)(3) of the Act); (2) individuals who will obtain certification to teach other subjects and will teach in high-need schools; (3) individuals who will obtain certification to teach science, mathematics, or special education, instead of the subjects they currently teach, but not in high-need schools; and (4) individuals currently teaching and seeking assistance to be deemed “highly qualified” by their State within the meaning of section 9101(23) of the Act.

Reasons: It is the intent of these proposed criteria to give priority to attracting new members to the teaching profession from among eligible service members. To the extent that additional funds are available, in appropriate cases the criteria also permit the use of program funds as an inducement to retain eligible service members as existing teachers in the profession when they undertake an additional service commitment. Within each set of proposed priorities, the intent is to give priority to those willing both to teach in critical shortage fields—science, mathematics, or special education—and to teach in a high-need school, followed by those willing to teach other subjects in a high-need school and then those willing to teach in the critical shortage fields or in elementary education. The proposed priorities for those willing to teach science, mathematics, and special education encompass service members with educational or military experience in science, mathematics, special education, or vocational/ technical subjects who agree to seek employment as science, mathematics, or special education teachers as described in section 2303(d) of the Act.

Executive Order 12866

1. Potential Costs and Benefits

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those we have determined to be necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this regulatory action, we have determined that the benefits would justify the costs.

We have also determined that this regulatory action would not unduly interfere with State, local and tribal governments in the exercise of their governmental functions.

2. Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum on “Plain Language in Government Writing” require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A “section” is preceded by the symbol “§” and a numbered heading; for example, § 230.1 What is the Troops-to-Teachers program?)
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

Send any comments that concern how the Department could make these proposed regulations easier to understand to the person listed in the **ADDRESSES** section of the preamble.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

These proposed regulations would affect only individuals wishing to participate in the Troops-to-Teachers program, and individuals are not defined as small entities in the Regulatory Flexibility Act.

Paperwork Reduction Act of 1995

These proposed regulations do not contain any information collection requirements.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Assessment of Educational Impact

The Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

(Catalog of Federal Domestic Assistance Number 84.815)

The Secretary of Education has delegated authority to the Assistant Deputy Secretary for Innovation and Improvement to issue these proposed amendments to 34 CFR Chapter II.

List of Subjects in 34 CFR Part 230

Armed forces, Education, Elementary and secondary education, Stipends, Teachers, Vocational education.

Dated: January 11, 2005.

Nina Shokraii Rees,

Assistant Deputy Secretary for Innovation and Improvement.

For the reasons discussed in the preamble, the Secretary proposes to amend title 34 of the Code of Federal Regulations by adding part 230 to read as follows:

PART 230—Innovation for Teacher Quality

Subpart A—Troops-to-Teachers Program

Sec.

230.1 What is the Troops-to-Teachers program?

230.2 What definitions apply to the Troops-to-Teacher program?

230.3 What criteria does the Secretary use to select eligible participants in the Troops-to-Teachers program?

Subpart B—[Reserved]

Authority: 20 U.S.C. 1221e-3, 3474, and 6671-6684, unless otherwise noted.

Subpart A—Troops-to-Teachers program

§ 230.1 What is the Troops-to-Teacher program?

Under the Troops-to-Teachers program, the Secretary of Education transfers funds to the Department of Defense for the Defense Activity for Non-Traditional Education Support (DANTES) to provide assistance, including a stipend of up to \$5,000, to an eligible member of the Armed Forces so that he or she can obtain certification or licensing as an elementary school teacher, secondary school teacher, or vocational/technical teacher and become a highly qualified teacher by demonstrating competency in each of the subjects he or she teaches. In addition, the program helps the individual find employment in a high-need local educational agency or public charter school. In lieu of a stipend, DANTES may pay a bonus of \$10,000 to a participant who agrees to teach in high-poverty school.

(Authority: 20 U.S.C. 1221e-3, 3474, and 6671-6677)

§ 230.2 What definitions apply to the Troops-to-Teacher program?

As used in this subpart—

Act means the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001.

High-Need Local Educational Agency as used in section 2304(a) of the Act means a local educational agency—

(1) That serves not fewer than 10,000 children from families with incomes below the poverty line; or

(2) For which not less than 20 percent of the children served by the agency are

from families with incomes below the poverty line; or

(3) For which not less than 15 nor more than 19 percent of the children served by the agency are from families with incomes below the poverty line and that assigns all teachers funded by the Troops-to-Teachers program to a high-need school as defined in section 2304(d)(3) of the Act for the duration of their service commitment under the Act.

(Authority: 20 U.S.C. 1221e-3, 3474, and 6672(c)(1))

Public Charter School means a charter school as defined in section 5210(1) of the Act.

§ 230.3 What criteria does the Secretary use to select eligible participants in the Troops-to-Teacher program?

(a) The Secretary establishes the following criteria for the selection of eligible participants in the Troops-to-Teachers program in the following order:

(1) First priority is given to eligible service members who are not employed as an elementary or secondary school teacher at the time that they enter into a participation agreement with the Secretary under section 2304(a) of the Act, which requires participants to teach in a high-need local educational agency (LEA) or public charter school for at least three years, who will be selected in the following order:

(i) Those who agree to obtain certification to teach science, mathematics, or special education and who agree to teach in a “high-need school” as defined in section 2304(d)(3) of the Act.

(ii) Those who agree to obtain certification to teach another subject or subjects and who agree to teach in a “high-need school” as defined in section 2304(d)(3) of the Act.

(iii) Those who agree to obtain certification to teach science, mathematics, or special education or obtain certification to teach at the elementary school level.

(iv) All other eligible applicants.

(2) After all eligible first-priority participants are selected, second priority is given to eligible service members who are employed as an elementary or secondary school teacher at the time that they enter into a new participation agreement with the Secretary under section 2304(a) of the Act, which requires participants to teach in a high-need local educational agency (LEA) or public charter school for at least three years, who will be selected in the following order:

(i) Those who agree to obtain certification to teach science,

mathematics or special education rather than the subjects they currently teach and who agree to teach in a "high-need school" as defined in section 2304(d)(3) of the Act.

(ii) Those who agree to obtain certification to teach another subject or subjects and who agree to teach in a "high-need school" as defined in section 2304(d)(3) of the Act.

(iii) Those who agree to obtain certification to teach science, mathematics, or special education rather than the subjects they currently teach.

(iv) All others seeking assistance necessary to be deemed "highly qualified" by their State within the meaning of section 9101(23) of the Act.

(b) [Reserved]

(Authority: 20 U.S.C. 1221e-3, 3474, and 6672(c)(1))

[FR Doc. 05-861 Filed 1-13-05; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 041229366-4366-01; I.D. 122304D]

RIN 0648-AQ25

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Monkfish Fishery; Amendment 2

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement measures in Amendment 2 to the Monkfish Fishery Management Plan (FMP) developed jointly by the New England and Mid-Atlantic Fishery Management Councils (Councils).

Amendment 2 was developed to address essential fish habitat (EFH) and bycatch issues, and to revise the FMP to address several issues raised during the public scoping process. This proposed action includes the following programs and measures: A new limited access permit for qualified vessels fishing south of 38° 20' N. lat.; an offshore trawl fishery in the Southern Fishery Management Area (SFMA); a maximum disc diameter of 6-inches (15.2 cm) for trawl gear vessels fishing in the SFMA; closure of two deep-sea canyon areas to all gears when

fishing under the monkfish day-at-sea (DAS) program; establishment of a research DAS set-aside program; an exemption program for vessels fishing outside of the Exclusive Economic Zone (EEZ); adjustments to the incidental monkfish catch limits; a decrease in the minimum monkfish size in the SFMA; removal of the 20-day block requirement; revisions to the monkfish baseline provisions; and additions to the frameworkable measures. This intent of this action is to provide efficient management of the monkfish fishery and to meet conservation objectives.

DATES: Comments must be received by 5 p.m., February 14, 2005.

ADDRESSES: Written comments on the proposed rule may be submitted by any of the following methods:

- E-mail: E-mail comments may be submitted to mnkamnd2@noaa.gov. Include in the subject line the following "Comments on the Proposed Rule for Monkfish Amendment 2."
- Federal e-Rulemaking Portal: <http://www.regulations.gov>
- Mail: Comments submitted by mail should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. Mark the outside of the envelope "Comments on the Proposed Rule for Monkfish Amendment 2."
- Facsimile (fax): Comments submitted by fax should be faxed to (978) 281-9135.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule should be submitted to the Regional Administrator at the address above and by e-mail to David_Rostker@omb.eop.gov, or fax to (202) 395-7285.

Copies of Amendment 2, its Regulatory Impact Review (RIR), including the Initial Regulatory Flexibility Analysis (IRFA), and the Final Supplemental Environmental Impact Statement (FSEIS) are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at <http://www.nefmc.org>.

FOR FURTHER INFORMATION CONTACT: Allison R. Ferreira, Fishery Policy Analyst, (978) 281-9103; fax (978) 281-9135; e-mail allison.ferreira@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Councils developed Amendment 2 to address a number of issues that

arose out of the implementation of the original FMP, as well as issues that were identified during public scoping. Issues arising from the original FMP include: The displacement of vessels from their established monkfish fisheries due to restrictive trip limits; unattainable permit qualification criteria for vessels in the southern end of the range of the fishery; discards (bycatch) of monkfish due to regulations (i.e., minimum size restrictions and incidental catch limits); and deficiencies in meeting Magnuson-Stevens Act requirements pertaining to protection of Essential Fish Habitat (EFH) in accordance with the Joint Stipulation and Order resulting from the legal challenge *American Oceans Campaign, et al. v. Daley*. Issues arising from public scoping include: Deficiencies in meeting Magnuson-Stevens Act requirements, including preventing overfishing and rebuilding overfished stocks; a need to improve monkfish data collection and research; the need to establish a North Atlantic Fisheries Organization (NAFO) exemption program for monkfish; multiple vessel baseline specifications for limited access monkfish vessels; a need to update environmental documents describing the impact of the FMP; and a need to reduce FMP complexity where possible.

A notice of availability of a Draft Supplemental Environmental Impact Statement (DSEIS), which analyzed the impacts of all of the measures under consideration in Amendment 2, was published on April 30, 2004 (69 FR 23571), with public comment accepted through July 28, 2004. Public hearings were held between June 15 and June 24, 2004, in six locations from Maine to North Carolina.

Proposed Measures

1. Modification of the Limited Access Permit Qualification Criteria
Modification of the limited access monkfish permit qualification criteria is being proposed to address concerns raised by some vessel owners who believe that they were not adequately notified of the monkfish control date and/or because of confusion regarding the southern boundary of the monkfish management unit in the initial FMP.

Amendment 2 would provide a renewed opportunity for a non-limited access monkfish vessel to qualify for a new limited access monkfish permit if it could demonstrate that it had monkfish landed in the area south of 38° 00' N. lat. during the qualification period March 15 through June 15, for the years 1994 through 1998. Two permits would be available, depending on the amount of monkfish the vessel