

Risks and Safety Risks” (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, Section 5–501 of the Order directs the Agency to evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to the Executive Order because it is not economically significant as defined in EO 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This direct final rule merely changes the regulatory schedule for a rulemaking to address emissions from Category 3 marine engines.

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not a “significant energy action” as defined in Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. This direct final rule merely changes the regulatory schedule for a rulemaking to address emissions from Category 3 marine engines.

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (such as materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This direct final rule does not involve technical standards. This direct final rule merely changes the regulatory schedule for a rulemaking to address emissions from Category 3 marine engines. Therefore, EPA did not consider the use of any voluntary consensus standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This direct final rule merely changes the regulatory schedule for a rulemaking to address emissions from Category 3 marine engines.

*K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to Congress and the Comptroller General of the United States. We will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This direct final rule is effective on June 26, 2007.

*L. Statutory Authority*

The statutory authority for this action comes from section 213 of the Clean Air Act as amended (42 U.S.C. 7547). This action is a rulemaking subject to the provisions of Clean Air Act section 307(d). See 42 U.S.C. 7607(d).

**List of Subjects in 40 CFR Part 94**

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Penalties, Reporting and recordkeeping requirements, Vessels, Warranties.

Dated: April 23, 2007.

**Stephen L. Johnson,**  
Administrator.

■ For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

**PART 94—CONTROL OF AIR POLLUTION FROM MARINE COMPRESSION-IGNITION EMISSIONS**

■ 1. The authority citation for part 94 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

■ 2. Section 94.8 is amended by revising paragraph (a)(2)(ii) to read as follows:

**§ 94.8 Exhaust emission standards.**

(a) \* \* \*

(2) \* \* \*

(ii) EPA has not finalized Tier 2 standards for Category 3 engines. EPA will promulgate final Tier 2 standards for Category 3 engines on or before December 17, 2009.

\* \* \* \* \*

[FR Doc. E7–8105 Filed 4–26–07; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 070312058–7087–02; I.D. 020507A]

**RIN 0648–AU34**

**Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Interim Secretarial Action**

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

**ACTION:** Temporary rule; interim measures; request for comments.

**SUMMARY:** NMFS implements this interim final rule pursuant to its authority to issue interim measures under the Magnuson-Stevens Fishery Conservation and Management Act

(Magnuson-Stevens Act). This temporary action implements measures to help end overfishing and rebuild the monkfish resource while NMFS conducts a stock assessment for the fishery and makes a final determination on Framework Adjustment 4 (Framework 4) to the Monkfish Fishery Management Plan (FMP).

**DATES:** Effective May 1, 2007, through October 27, 2007, or until superceded by another final rule, whichever occurs first. Additional comments on this interim action must be received by May 29, 2007.

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

- E-mail: E-mail comments on this interim rule may be submitted to [monkfish-interim07@noaa.gov](mailto:monkfish-interim07@noaa.gov). Include in the subject line the following "Comments on Monkfish Interim Measures."
- Federal e-Rulemaking Portal: <http://www.regulations.gov>.
- Mail: Comments submitted by mail should be sent to Patricia A. Kurkul, Administrator, Northeast Region, NMFS (Regional Administrator), One Blackburn Drive, Gloucester, MA 01930-2298. Mark the outside of the envelope "Comments on the Interim Rule for the Monkfish FMP."
- Facsimile (fax): Comments submitted by fax should be faxed to (978) 281-9135.

Copies of this interim final rule, its Regulatory Impact Review (RIR), Initial Regulatory Flexibility Analysis (IRFA), and the Environmental Assessment (EA) are available from Patricia A. Kurkul, Regional Administrator, NMFS, One Blackburn Drive, Gloucester, MA 01930. The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, public comments and responses, and the summary of impacts and alternatives contained in the Classification section of the preamble of this interim final rule. Copies of the small entity compliance guide are available from the Regional Administrator at the above address. All of these documents are also accessible via the Internet at <http://www.nero.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Allison McHale, Fishery Policy Analyst, e-mail [Allison.McHale@noaa.gov](mailto:Allison.McHale@noaa.gov), phone (978) 281-9103, fax (978) 281-9135.

**SUPPLEMENTARY INFORMATION:**

**Background**

This temporary final rule implements interim measures, as authorized by section 305 of the Magnuson-Stevens Act, intended to help end overfishing in the monkfish fishery and rebuild

monkfish stocks in accordance with the rebuilding goals established in the FMP. A proposed rule requesting public comment on this interim action published in the **Federal Register** on March 20, 2007 (72 FR 13069). Public comments were accepted through April 4, 2007. A full discussion of the background of this interim action was presented in the preamble to the proposed rule and is not repeated here.

The New England and Mid-Atlantic Fishery Management Councils (Councils) initiated Framework 4 during the spring of 2006, based upon concerns over the Framework 2 control rule (68 FR 22325; April 28, 2003), and the status of the monkfish resource with respect to the rebuilding schedule established in the FMP. The objectives of Framework 4 are: (1) Adopt a set of management measures that have a reasonable expectation of achieving stock rebuilding goals by the end of FY 2009; (2) include measures that, to the extent possible, mitigate the socioeconomic effects of the measures intended to rebuild the stock without compromising their effectiveness; and (3) develop a program that provides contingencies for anticipating changes in the basis for evaluating stock status with respect to reference points, specifically the transition to a new trawl survey vessel and continuation of the triennial cooperative survey. The Councils approved Framework 4 during the fall of 2006, and submitted the Framework 4 document to NMFS on January 11, 2007, for review and approval. A proposed rule soliciting public comment on the management measures contained in Framework 4 published on March 20, 2007, in conjunction with the proposed interim rule, with public comments on Framework 4 accepted through April 19, 2007.

Due to concerns over the status of the monkfish resource and the fact that monkfish is in the seventh year of a 10-year rebuilding plan, NMFS has initiated a Stock Assessment Review Committee (SARC) and will hold an integrated Stock Assessment Workshop (SAW)/SARC meeting to perform a monkfish stock assessment. Results of the workshop are expected to be available in July 2007. The tasks to be performed include a determination of stock status relative to the existing biological reference points (BRPs), a review of the existing BRPs and potential revision or redefinition of the BRPs along with a stock status determination, and review and potential revision of existing control rules for rebuilding the stock relative to the recommended BRPs.

Since the upcoming SAW/SARC will occur after the start of the 2007 monkfish fishing year, NMFS will delay making a final decision on Framework 4 until after the results of the stock assessment are available. As such, it is necessary to implement interim management measures for the start of the fishing year on May 1, 2007, in accordance with section 305 of the Magnuson-Stevens Act, based upon the information and management measures contained in Framework 4. The purpose of the interim rule is to implement management measures to help end overfishing and rebuild the monkfish resource while NMFS conducts a thorough review of the status of the monkfish resource, using the best and most recent information available. NMFS will use this updated information to make a final determination on Framework 4 following the completion of this stock assessment.

**Interim Management Measures for the Monkfish Fishery for FY 2007**

*1. Target TACs for the NFMA and SFMA*

This action establishes target TACs of 5,000 mt and 3,667 mt for the NFMA and SFMA, respectively, for FY 2007. The associated management measures contained in this interim rule (i.e., trip limits and DAS restrictions) are designed to achieve these annual target TACs. However, the target TACs and associated management measures contained in this interim rule can only be in effect for 180 days, but may be extended for up to an additional 180 days, as provided at § 600.310(e)(5).

*2. DAS Requirement for the NFMA*

This action establishes measures that will require limited access monkfish vessels that are fishing in the NFMA to declare a monkfish DAS if the vessel exceeds, or is anticipating to exceed, the applicable monkfish incidental catch limit. All limited access monkfish vessels must declare their intent to fish under a monkfish DAS prior to leaving port. This action does not implement the provision proposed in Framework 4 to allow limited access monkfish vessels fishing in the NFMA under a Northeast multispecies Category A DAS to change their DAS declaration to a monkfish DAS while at sea. This proposed Framework 4 provision is not implemented in this interim rule due to concerns that it may allow these limited access monkfish vessels to target monkfish more efficiently in this management area, increasing the likelihood that the target TAC would be exceeded.

### 3. Trip Limits and DAS Allocations for the NFMA

This action establishes an annual monkfish DAS allocation of 31 DAS for limited access monkfish vessels fishing in the NFMA. This action also establishes NFMA trip limits of 1,250 lb (567 kg) tail weight per DAS for limited access monkfish Category A and C vessels, and 470 lb (213 kg) tail weight per DAS for limited access monkfish Category B and D vessels.

### 4. Trip limits and DAS Allocations for the SFMA

This action restricts limited access monkfish vessels fishing in the SFMA to 12 monkfish DAS annually. Due to the difference between the proposed DAS allocations for the NFMA and the SFMA, this action established an annual allocation of 31 monkfish DAS for all limited access monkfish vessels, but restricts vessels to using no more than 12 of their allocated 31 monkfish DAS in the SFMA. This action also establishes SFMA trip limits of 550 lb (249 kg) tail weight for limited access monkfish Category A, C, and G vessels; and 450 lb (204 kg) tail weight per DAS for limited access monkfish Category B, D, and H vessels. The trip limits and DAS restrictions being implemented in this interim rule are the same as those in effect during FY 2006.

### 5. Carryover DAS

This action prohibits any unused monkfish DAS from FY 2006 from being used as carryover DAS during the portion of FY 2007 that this interim rule is in effect. The Regional Administrator may restore all or a portion of the carryover DAS available for FY 2007 through a subsequent action, if warranted, based upon the results of the July 2007 stock assessment.

### 6. Monkfish Incidental Catch Limit for the NFMA

This action reduces the monkfish incidental catch limit applicable to limited access monkfish vessels (Categories A, B, C, D, F, G, and H) and open access monkfish vessels (Category E) fishing under a NE multispecies DAS in the NFMA from 400 lb (181 kg) tail weight per NE multispecies DAS, or 50 percent of the weight of fish on board, to 300 lb (136 kg) tail weight per DAS, or 25 percent of the weight of fish on board, whichever is less. The revised incidental catch limit is equivalent to that implemented in the original FMP (64 FR 54732; October 7, 1999).

### 7. Revision to Boundary Line for Category H Permit Holders

This action revises the northern boundary line applicable to limited access monkfish Category H permit holders. These vessels were allowed to enter the fishery through an extension to the limited access monkfish program established in Amendment 2 to the FMP. Seven vessels qualified for Category H permits under this program. Under the provisions of the program contained in Amendment 2, these vessels were restricted to fishing in the area south of 38°20' N. lat. These vessels have a limited season when monkfish are available during the late spring. In addition, these vessels are constrained by sea turtle closures that essentially restrict the fishery to an area that is 20 nautical miles (37 km) wide. In Framework 4, the Councils recommended that the northern boundary line applicable to limited access monkfish Category H vessels be shifted 20 nautical miles (37 km) northward to 38°40' N. lat. to increase the opportunity for the affected vessels to participate in the monkfish fishery, and provide some additional area to move into, in the event that sea turtles appear in the area north of 38°00' N. lat., which is the northern boundary of the sea turtle closure area. For the same reasons the Councils recommended the measure for inclusion in Framework 4, this action temporarily implements the measure to shift the northern boundary line applicable to limited access monkfish Category H vessels to 38°40' N. lat.

### 8. Scallop Closed Area Access Program Monkfish Incidental Catch Limit

Prior to the final approval of Framework 4, representatives from the scallop industry requested that the Councils clarify their intent with respect to the monkfish incidental catch limits applicable to scallop dredge vessels fishing in the Scallop Area Access Program, since changes to the program resulting from Scallop Framework 18 changed the monkfish incidental catch limit applicable to these areas. The final rule implementing Framework 18 to the Scallop FMP removed DAS counting for vessels fishing in Area Access Program. As a result, the monkfish possession limit dropped from 300 lb (136 kg) tail weight per scallop DAS, to 50 lb (23 kg) tail weight per day fished, up to a maximum of 150 lb (68 kg) tail weight in the access areas. Based on input from the scallop industry, the Councils proposed a measure in Framework 4 that would increase the monkfish possession limit applicable to limited

access scallop vessels fishing in the Scallop Area Access Program to 300 lb (136 kg) tail weight per day fished within the access area, not to include steaming time.

Available observer information from the scallop access areas indicates that these vessels typically do not catch a large amount of monkfish, but do tend to catch more, on average, than the current limit of 50 lb (23 kg) tail weight per day up to 150 lb (68 kg) tail weight per trip. Therefore, NMFS believes that temporarily implementing this Framework 4 measure in this interim rule will not increase monkfish fishing mortality resulting from limited access scallop vessels fishing in the Scallop Area Access Program, but will enable those monkfish being caught incidental to these scallop fishing activities to be landed.

### Comments and Responses

Thirty-three comments were received during the comment period for the proposed rule for this action, including two from groups representing the fishing industry, one from each Council, and one from the State of Maine Division of Marine Fisheries (State of Maine). The remainder of the comments were submitted by members of the general public, including fishermen. In addition, several commenters expressed concerns that were not relevant to the proposed action. Since these concerns were not directed at the proposed measures or other aspects of this interim action, NMFS is not responding to these particular concerns in this preamble.

*Comment 1:* One commenter expressed concerns over the status of the stock and stated that the annual monkfish quotas should be cut by 50 percent in FY 2007, and by 10 percent every year thereafter.

*Response:* The target TAC for the NFMA that is being implemented in this temporary interim rule is 35 percent less than the target TAC in effect for FY 2006. This target TAC is considered to be conservative, cutting landings nearly in half compared to FY 2005 levels, and was developed by the Monkfish Plan Development Team (PDT) based upon the best scientific information available.

*Comment 2:* Twelve commenters expressed support for maintaining FY 2006 management measures for the SFMA, versus shutting down the directed fishery, until further information is available from the upcoming monkfish stock assessment.

*Response:* NMFS agrees that the best option for this interim action is to maintain the current management measures in the SFMA until further information is available concerning the

status of the monkfish resource. As noted in the preamble of this final rule, NMFS intends to conduct a monkfish stock assessment in July 2007. Once the results of this stock assessment are available, NMFS intends to make a final decision on Framework 4.

*Comment 3:* Five commenters stated that they opposed a closure of the directed monkfish fishery in the SFMA during FY 2007, but did not express their support or lack of support for the proposed interim measures.

*Response:* NMFS agrees that based on information currently available concerning the status the monkfish resource and the potential economic impacts associated with a closure of the directed monkfish fishery in the SFMA, a complete closure of the directed fishery is not necessary under this interim rule. Given the uncertainties surrounding the status of the monkfish resource in both management areas, NMFS believes that the most reasonable approach is to reduce fishing effort in the NFMA to the level recommended by the Councils in Framework 4, and maintain FY 2006 effort levels (excluding carryover) under this interim rule until a thorough evaluation of the monkfish resource can be conducted through a formal stock assessment.

*Comment 4:* Fifteen commenters expressed their lack of support for the proposed interim measures. However, one of these commenters expressed support for implementing the proposed Framework 4 target TAC, trip limits, and DAS restrictions for the NFMA through an interim rule, while specifically opposing a closure of the directed fishery in the SFMA.

*Response:* NMFS believes that it would not be appropriate to move forward with making a decision on Framework 4 prior to conducting an updated stock assessment. Monkfish is in year 7 of a 10-year rebuilding plan, but the 3-year running average biomass indices for both management areas are less than 50-percent of their respective biomass targets. As a result, NMFS believes that any increase in the target TAC for either management area above the status quo cannot be justified, which is what would occur in the SFMA if the Framework 4 target TAC were to be implemented. As noted in the response to Comment 3, NMFS believes that the measures being implemented in this interim rule are advisable from a biological perspective, while recognizing the economic impacts to the directed monkfish fishery that would result from a closure of the directed fishery in the SFMA.

*Comment 5:* Eleven commenters expressed concern over the economic

impacts associated with a closure of the directed fishery, with one commenter noting the importance of maintaining a monkfish fishery, even at a minimal level, to help maintain the markets that have been established for this fishery.

*Response:* As noted in the responses to Comments 3 and 4, this interim rule intends to balance economic impact and the need for precautionary measures while a new stock assessment is concluded. Thus, this interim rule does not close the directed fishery.

*Comment 6:* Three commenters noted the potential biological impacts to non-target species associated with a directed fishery closure resulting from a redirection of effort to other fisheries.

*Response:* NMFS recognizes the potential impact to non-target species resulting from a redirection of fishing effort, and discusses this impact in section 5.1.1.6 of the EA/RIR/IRFA prepared for this action. However, the level of such a redirection of fishing effort, and commensurate impact on non-target species, cannot be reliably calculated, since it is difficult to predict future changes to fishing behavior in response to changes in regulations.

*Comment 7:* Four commenters mentioned the potential biological impacts resulting from the discarding of monkfish over the incidental limit by vessels targeting scallops and NE multispecies, and also by vessels that continue to target monkfish under the incidental limit.

*Response:* NMFS recognizes that a moratorium on directed fishing in the SFMA would likely result in an increase in the amount of monkfish caught incidental to other fishing activities, resulting from a redirection of fishing effort. NMFS also recognizes that a closure of the directed fishery in the SFMA could increase the targeting of monkfish under the incidental limit, potentially resulting in increased discards. The magnitude of this increase in incidental monkfish catch cannot be calculated, since it is difficult to predict fishermen's response to changing regulations, but it is expected that the negative biological impact of the increased incidental catch will be offset by the overall benefit to the stocks of dramatically reducing fishing effort. This discussion is also provided in section 5.1.1.6 of the EA/RIR/IRFA prepared for this action.

*Comment 8:* Fifteen commenters expressed their discontent with the process by which NMFS is delaying final action on Framework 4 and implementing interim measures for the start of the fishing year, with three questioning the authority of NMFS to implement measures under Magnuson-

Stevens Act interim rule authority, citing that the action proposed by the Councils is based on the best scientific information available.

*Response:* NMFS asserts that, given the status of the monkfish resource, and only 3 years remaining in the rebuilding schedule, a delay in making a final determination on Framework 4 is an appropriate and responsible course of action. This interim rule reflects a precautionary approach to managing the monkfish fishery in anticipation of an updated stock assessment in July 2007. The Secretary of Commerce (Secretary) has been given the authority under section 305(c) of the Magnuson-Stevens Act to implement measures to address overfishing. Because the purpose of this rule is to implement measures to help end overfishing and rebuild the monkfish resource until more information is available concerning the status of the monkfish resource, this rulemaking is in accordance with the interim rule authority provided to the Secretary under the Magnuson-Stevens Act, and consistent with guidelines for implementing emergency and interim measures.

*Comment 9:* Ten commenters mentioned the economic impacts associated with the sudden change in management measures for the start of FY 2007 from what was proposed by the Councils in Framework 4. One commenter specifically noted that the proposed rule announcing the proposed interim management measures occurred 40 days prior to the start of the fishing year, impacting the ability of vessels, shore side processors, and dock facilities, to make appropriate business decisions for the upcoming fishing year, resulting in severe economic impacts that were not factored into the economic impact analyses.

*Response:* NMFS considered and analyzed the economic and social impacts associated with the timing of this rule in sections 5.3 and 5.4 of the EA/RIR/IRFA prepared for this action. In summary, the short-term economic and social impacts associated with implementing this interim rule were determined to be less substantial than the potential long-term economic and social impacts of allowing over-harvesting of the monkfish resource.

*Comment 10:* One commenter expressed support for reducing the DAS carryover, noting that the Councils disapproved including this measure in Framework 4 due to the inability of NMFS to provide timely DAS allocation and usage information.

*Response:* NMFS shares the commenter's concern over carryover DAS usage in the monkfish fishery,

which is why the use of carryover DAS will be temporarily prohibited under this interim rule. NMFS also recognizes the industry's concern over timely and accurate DAS information, and is taking steps to improve the existing DAS monitoring system.

*Comment 11:* Six commenters stated that a closure of the directed monkfish fishery with such little notice would potentially force them to retrieve their nets in bad weather, or discard monkfish caught in these nets if they were forced to retrieve their nets after such a closure went into effect.

*Response:* NMFS understands the social and economic impacts that would result from the closure of the directed fishery in the SFMA, including the timing of the announcement of such a closure, and is not implementing a closure of the directed fishery in the SFMA in this interim rule.

*Comment 12:* Six commenters stated that either a closure of the directed fishery or the proposed interim measures would force them to fish all or part of their season in the NFMA.

*Response:* NMFS understands that the proposed interim measures for the SFMA or a closure of the directed fishery in the SFMA could shift some fishing effort to the NFMA. However, the magnitude of such a shift in fishing effort is dependent on the ability of individual vessels to move their fishing operations to areas where they have not fished historically, and is difficult to predict. Based upon the 2 years where fishing effort was constrained in the SFMA (FY 2004 and FY 2006), it does not appear that such a shift in effort would be substantial, especially given the constraints on fishing under a multispecies DAS in the NFMA, such as double-counting of multispecies DAS in the Gulf of Maine Differential Area, and the limited ability of vessels to target monkfish outside of a concurrent multispecies DAS in the NFMA.

*Comment 13:* One comment was received regarding the length of the comment period on the interim rule. The commenter expressed concern over the 15-day comment period, suggesting that it would limit the ability of industry participants to provide feedback to the agency.

*Response:* NMFS understands the commenter's concern regarding the length of the public comment period for this interim rule. However, the agency has a statutory obligation to ensure that management measures adequate to protect the monkfish resource and prevent overfishing are in place until the agency has sufficient information to make a determination about Framework 4. Any degree of overfishing will delay

stock rebuilding and further threaten our ability to rebuild the stock within the Magnuson-Stevens Act mandated 10-year rebuilding time frame. Because the fishing year begins on May 1, 2007, and, without this interim rule, there would effectively be no controls on monkfish fishing in the NFMA, an abbreviated comment period was necessary to ensure the rule could be implemented on May 1, 2007. In part, this is why the agency is continuing to accept comments on the interim rule for an additional 30 days beyond its publication. NMFS will consider these additional comments when it determines an appropriate course of action to take if it becomes necessary to extend this interim rule beyond the initial 180 days.

*Comment 14:* One commenter stated that the proposal to delay making a final decision on Framework 4 violated 16 U.S.C. § 1854(b), which is the Magnuson-Stevens Act requirement that the Secretary of Commerce issue final regulations within 30 days of the close of the comment period.

*Response:* The Magnuson-Stevens Act requirement to issue final regulations within 30 days of the close of the public comment period applies only to FMPs and FMP amendments. The regulations that establish the requirements and process for the development and implementation of framework adjustments to the Monkfish FMP are found at § 648.96(c)(3)(ii)(B). These regulations stipulate that the measures shall be published as a final rule in the **Federal Register** only if the Regional Administrator concurs with the Councils' recommendation. There is no specific time requirement under the framework adjustment procedures in the Monkfish FMP by which NMFS must publish a final rule.

#### Classification

The Regional Administrator has determined that the management measures implemented by this interim final rule are necessary for the conservation and management of the monkfish fishery, and are consistent with the Magnuson-Stevens Act and other applicable laws.

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator (AA) finds good cause to waive the 30-day delayed effectiveness for the measures implemented by this interim final rule. The need to implement these measures in a timely manner to help end overfishing in the monkfish fishery and rebuild the monkfish resource constitutes good cause under authority contained in 5 U.S.C. 553(d)(3), to establish an effective date less than 30

days after date of publication. This action establishes temporary measures (target TACs, trip limits, DAS) for the monkfish fishery for FY 2007 (May 1, 2007, to April 30, 2008) that are either more restrictive than or equivalent to the measures currently in effect for FY 2006. Failure to implement these measures in a timely manner would result in overfishing of the monkfish resource because it would delay implementation of the trip limits and DAS restrictions for vessels fishing in the NFMA that are necessary to prevent overfishing for up to 30 days beyond the start of the fishing year. Currently, vessels fishing in this management area are not subject to trip limits or monkfish DAS restrictions, and so during this delay in effectiveness, these vessels could continue to fish unabated.

Therefore, any delay in implementation beyond the start of the fishing year would provide limited access monkfish vessels fishing in the NFMA with the ability to fish for monkfish under much less restrictive measures than those being implemented in this temporary interim rule, resulting in an increase in fishing effort and overfishing of the monkfish resource. Any over-harvest of the target TAC for the NFMA would result in negative impacts to the monkfish resource as a whole since stocks in both management areas are well behind the rebuilding schedules established in the FMP. Any degree of overfishing will delay stock rebuilding and further threaten our ability to rebuild the stock within the Magnuson-Stevens Act mandated 10-year rebuilding time frame.

This action could not be implemented earlier due to timing of the final approval of Framework 4 by the Councils (November 2006 for the NEFMC and December 2006 for the MAFMC), which resulted in submission of this action by the NEFMC on January 11, 2007. Due to concerns over the status of the monkfish resource with respect to the rebuilding goals established in the FMP, NMFS modified its approach to the action and published a joint proposed rule on March 20, 2007, seeking public comment on Framework 4, and proposed interim measures for the start of FY 2007. In order to implement this final rule before the start of FY 2007 and prevent the overfishing of the monkfish resource that would occur during a delay in implementation, the AA finds that there is good cause to waive the 30-day delay in effectiveness.

This interim final rule has been determined not to be significant for the purposes of Executive Order (E.O.) 12866.

### *Final Regulatory Flexibility Analysis*

NMFS, pursuant to section 604 of the Regulatory Flexibility Act (RFA), prepared this FRFA in support of the measures being implemented through this interim action. The FRFA describes the economic impact that this interim final rule will have on small entities. This FRFA incorporates the IRFA, any comments received on the proposed rule, NMFS's responses to those comments, and the analyses completed to support the action. There are no Federal rules that may duplicate, overlap, or conflict with this interim final rule. A copy of the IRFA, RIR, and EA prepared for this action are available from NMFS, Northeast Regional Office, and are available on the Northeast Regional Office website (see **ADDRESSES**).

### *Statement of Objective and Need*

A description of why this action was considered, the objectives of, and the legal basis for this final rule are contained in the preamble to this interim final rule, the preamble of the proposed rule for this action, and in the EA prepared for this action and are not repeated here. In summary, this rule implements measures to reduce fishing effort in the NFMA in accordance with the measures proposed by the Councils in Framework 4, and maintains existing effort levels in the SFMA until a final determination can be made on Framework 4 once the results of an upcoming stock assessment are available.

### *Summary of Significant Issues Raised in Public Comments*

Thirty-three public comments were received on the proposed rule, and although several comments made general statements regarding the economic impacts associated with this rule, none of the comments were specific to the economic analyses summarized in the IRFA. These comments and the agency's response to those comments are provided in the preamble of this final rule.

### *Description and Estimate of Number of Small Entities to Which this Rule Will Apply*

All of the entities (fishing vessels) affected by this action are considered small entities under the Small Business Administration's size standards for small fishing businesses (\$4.0 million in gross sales). Therefore, there are no disproportionate impacts between small and large entities associated with this temporary interim rule. As of October 13, 2006, there were 731 limited access monkfish permit holders and

approximately 2,121 vessels holding an open access Category E monkfish permit. This action will affect all active limited access vessels, and any open access monkfish vessels that land monkfish from the NFMA.

Vessel activity reports for FY 2005 indicate that 627 limited access monkfish permit holders participated in the monkfish fishery. Of these vessels, 150 fished exclusively in the NFMA and 226 fished exclusively in the SFMA, with the remaining 251 fishing in both management areas. During the same time period, vessel activity reports indicate that 570 incidental permit holders reported landing monkfish. Of these vessels, 163 landed monkfish only from the NFMA, 344 landed monkfish only from the SFMA, and 63 landed monkfish from both management areas. The measures being implemented in this interim rule will affect at least the 627 limited access vessels that fished for monkfish during FY 2005 and the 226 incidental permit holders landing monkfish from the NFMA.

### *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

This action does not introduce any new reporting, recordkeeping, or other compliance requirements.

### *Description of the Steps Taken to Minimize Economic Impacts on Small Entities*

This action largely builds upon Framework 4 measures for which numerous alternatives were considered. Due to the focused and short-term objectives of this action, NMFS only fully considered two target TAC alternatives (the proposed interim action and the No Action alternative) and three trip limit/DAS alternatives (the proposed action, a modification of the proposed action closing the directed monkfish fishery in the SFMA, and the No Action alternative). Also included in this action are two alternatives to require the use of monkfish DAS in the NFMA; the proposed action to require the use of a monkfish DAS if a limited access monkfish vessel exceeds the incidental catch limit, and No Action (i.e., no monkfish DAS requirement). Finally, NMFS considered the same alternatives considered by the Councils in Framework 4 for the remaining three measures being temporarily implemented in this rule: A revision to the monkfish incidental catch limit in the NFMA; a revision to the boundary line for limited access monkfish Category H permit holders; and a revision to the monkfish incidental catch limit applicable to limited access

scallop vessels fishing in the Scallop Area Access Program.

The proposed target TAC, trip limits, and DAS requirements for the NFMA are expected to result in a reduction in monkfish revenues ranging from 18.6 percent for vessels fishing only in the NFMA, to 12.6 percent for vessels fishing in both management areas. The No Action target TAC alternative for the NFMA, which results in a lower target TAC than the proposed action, could result in a greater economic impact on small entities under the proposed action to implement DAS restriction and trip limits in the NFMA. However, the combination of the No Action target TAC alternative for the NFMA with the No Action DAS and trip limit alternatives would not result in any economic impacts to vessels fishing in the NFMA, since vessels fishing in this area would not be subject to trip limits or DAS restrictions. Although the combination of these No Action alternatives would result in a reduced target TAC for the NFMA, it would provide no means by which to ensure that this target TAC is not exceeded, making this combination of alternatives inconsistent with the objectives of the FMP.

The proposed target TAC, trip limits, and DAS restrictions for the SFMA are less restrictive under the No Action alternative than the proposed action. However, because the No Action alternative would result in increased fishing mortality over the proposed action, it does not meet the objectives of this action, and was, therefore, rejected. The other alternative, to close the directed fishery in the SFMA, was also rejected since it would result in economic impacts that are more severe than deemed necessary to meet the objectives if this action.

As noted above, the other measures considered and analyzed in this interim rule were measures that were also considered and analyzed by the Councils in Framework 4. The alternative to reduce the monkfish incidental catch limit in the NFMA would impact less than 25 percent of all trips by monkfish vessels fishing in the NFMA, based upon landings and effort data from FY 2005, but would have a greater impact on limited access Category A and C vessels, since these vessels had a higher percentage of trips in excess of the proposed trip limit during FY 2005. However, these vessels will have monkfish DAS to utilize in the NFMA under which they could land monkfish in excess of the proposed incidental catch limit, mitigating the economic impact of this measure. The measures extending the northern

boundary applicable to limited access monkfish Category H vessels, and increasing the trip limit applicable to limited access scallop vessels fishing in the Scallop Access Area Program, are both less restrictive than their respective No Action alternatives, thereby having less of an economic impact.

Finally, the proposed action to eliminate the use of carryover DAS during the period of this interim rule would have a negative economic impact in comparison to the No Action alternative. However, the use of carryover DAS during the interim period could cause the target TACs for one or both management areas to be exceeded, which does not coincide with the objectives of the interim rule to help end overfishing and rebuild the monkfish resource in accordance with FMP objectives. As a result, the No Action DAS carryover alternative was rejected.

#### 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 or open 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 and are also available on the Northeast Regional Office website (see **ADDRESSES**).

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

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 23, 2007.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, 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 § 648.4, paragraphs (a)(9)(i)(A)(6) and (7) are suspended and paragraphs (a)(9)(i)(A)(8) and (9) are added to read as follows:

#### § 648.4 Vessel permits.

\* \* \* \* \*

(a) \* \* \*

(9) \* \* \*

(i) \* \* \*

(A) \* \* \*

(8) *Category G permit (vessels restricted to fishing south of 38°40' N. lat. as described in § 648.92(b) that do not qualify for a limited access monkfish Category A, B, C, or D permit).* The vessel landed at least 50,000 lb (22,680 kg) tail weight or 166,000 lb (75,296 kg) whole weight of monkfish in the area south of 38° 00' N. lat. during the period March 15 through June 15 in the years 1995 to 1998.

(9) *Category H permit (vessels restricted to fishing south of 38°40' N. lat. as described in § 648.92(b) that do not qualify for a limited access monkfish Category A, B, C, or D permit).* The vessel landed at least 7,500 lb (3,402 kg) tail weight or 24,900 lb (11,294 kg) whole weight of monkfish in the area south of 38° 00' N. lat. during the period March 15 through June 15 in the years 1995 to 1998.

\* \* \* \* \*

■ 3. In § 648.14, paragraph (y)(7) is suspended and paragraph (y)(22) is added to read as follows:

#### § 648.14 Prohibitions.

\* \* \* \* \*

(y) \* \* \*

(22) Fail to comply with the area restrictions applicable to limited access G and H vessels specified under § 648.92(b)(11).

\* \* \* \* \*

■ 4. In § 648.92, paragraphs (a)(1), (b)(1), and (b)(9) are suspended and paragraphs (b)(10) and (b)(11) are added to read as follows:

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

\* \* \* \* \*

(b) \* \* \*

(10) *Limited access monkfish permit holders.—(i) General provision.* Limited access monkfish permit holders shall be allocated 31 monkfish DAS for FY 2007 to be used in accordance with the restrictions of this paragraph (b), unless otherwise restricted by paragraph (b)(10)(ii) of this section, or unless the vessel is enrolled in the Offshore Fishery Program in the SFMA, as specified in paragraph (b)(10)(iii) of this section. The annual allocation of

monkfish DAS shall be reduced by the amount calculated in paragraph (b)(1)(iv) of this section for the research DAS set-aside. Limited access NE multispecies and limited access sea scallop permit holders who also possess a limited access monkfish permit must use a NE multispecies or sea scallop DAS concurrently with each monkfish DAS utilized, except as provided in paragraph (b)(2) of this section, unless otherwise specified under this subpart F.

(ii) *DAS restrictions for vessels fishing in the SFMA.* Limited access monkfish vessels may only use 12 of their 31 monkfish DAS allocation in the SFMA. All limited access monkfish vessels fishing in the SFMA must declare that they are fishing in this area through the vessel call-in system or VMS prior to the start of every trip. In addition, 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 shall presume that any monkfish DAS used were fished in the SFMA.

(iii) *Offshore Fishery Program DAS allocation.* A vessel issued a Category F permit, as described in § 648.95, shall be allocated a prorated number of monkfish DAS as specified in § 648.95(g)(2).

(iv) *Research DAS set-aside.* A total of 500 DAS shall be set aside and made available for cooperative research programs as described in paragraph of this section. These DAS shall be deducted from the total number of DAS allocated to all limited access monkfish permit holders, as specified under paragraph (b)(10)(i) of this section. A per vessel deduction shall be determined as follows: Allocated DAS minus the quotient of 500 DAS divided by the total number of limited access permits issued in the previous fishing year. For example, if the DAS allocation equals 31 DAS and there were 750 limited access monkfish permits issued during FY 2006, the number of DAS allocated to each vessel during FY 2007 would be 31 DAS minus 0.7 (500 DAS, divided by 750 permits), or 30.3 DAS.

(11) *Category G and H limited access permit holders.* (i) Vessels issued limited access monkfish Category G or H permits may fish under a monkfish DAS only in the area south of 38°40' N. lat.

(ii) Vessels issued a valid limited access monkfish Category G or H permit that also possess a limited access NE multispecies or limited access scallop permit are subject to the same provisions as Category C or D vessels,

respectively, unless otherwise stated under this subpart F.

\* \* \* \* \*

■ 5. In § 648.94, paragraphs (b)(1)–(5), (c)(1), and (c)(8) are suspended and paragraphs (b)(7)–(11), (c)(9), and (c)(10) are added to read as follows:

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

\* \* \* \* \*

(b) \* \* \*

(7) *Vessels fishing under the monkfish DAS program in the NFMA*—(i)

*Category A and C vessels.* Limited access monkfish Category A and C vessels that fish under a monkfish DAS exclusively in the NFMA may land up to 1,250 lb (567 kg) tail weight or 4,150 lb (1,882 kg) whole weight of monkfish per 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).

(ii) *Category B and D vessels.* Limited access monkfish Category B and D vessels that fish under a monkfish DAS exclusively in the NFMA may land up to 470 lb (213 kg) tail weight or 1,560 lb (708 kg) whole weight of monkfish per 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).

(8) *Vessels fishing under the monkfish DAS program in the SFMA*—(i) *Category A, C, and G vessels.* Limited access monkfish Category A, C, and G vessels that fish under a monkfish DAS in the SFMA may land up to 550 lb (249 kg) tail weight or 1,826 lb (828 kg) whole weight of monkfish per 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).

(ii) *Category B, D, and H vessels.* Limited access monkfish Category B, D, and H vessels that fish under a monkfish DAS in the SFMA may land up to 450 lb (204 kg) tail weight or 1,494 lb (678 kg) whole weight of monkfish per 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).

(iii) *Category F vessels.* Vessels issued a Category F permit are subject to the possession and landing restrictions specified at § 648.95(g)(1).

(9) *Category C, D, F, G and H vessels fishing under the multispecies DAS program*—(i) *NFMA.* Limited access monkfish Category C, D, F, G, or H vessels that are fishing under a NE multispecies DAS, and not a monkfish DAS, exclusively in the NFMA are subject to the incidental catch limit specified in paragraph (c)(9)(i) of this

section. Category C, D, F, G, and H vessels participating in the Northeast Multispecies Regular B DAS program, as specified under § 648.85(b)(6), are also subject to the incidental catch limit specified in paragraph (c)(9)(i) of this section.

(ii) *SFMA*—(A) *Category C, D, and F vessels.* Limited access monkfish Category C, D, or F vessels that fish any portion of a trip under a NE multispecies DAS in the SFMA, and not a monkfish DAS, may land up to 300 lb (136 kg) tail weight or 996 lb (452 kg) whole weight of monkfish per DAS if trawl gear is used exclusively during the trip, or 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight per DAS if gear other than trawl gear is used at any time during the trip. Category C, D, and F vessels participating in the Northeast Multispecies Regular B DAS program, as specified under § 648.85(b)(6), are also subject to the incidental catch limit specified in paragraph (c)(9)(ii) of this section.

(B) *Category G, and H vessels.* Limited access monkfish Category G and H vessels that fish any portion of a trip under a NE multispecies DAS in the SFMA, and not under a monkfish DAS, are subject to the incidental catch limit specified in paragraph (c)(9)(ii) of this section. Category G and H vessels participating in the Northeast Multispecies Regular B DAS program, as specified under § 648.85(b)(6), are also subject to the incidental catch limit specified in paragraph (c)(9)(ii) of this section.

(iii) *Transiting.* A vessel that harvested monkfish in the NFMA may transit the SFMA and possess monkfish in excess of the SFMA landing limit, provided such vessel complies with the provisions of § 648.94(e).

(10) *Category C, D, F, G, or H vessels fishing under the scallop DAS program.* A Category C, D, F, G, or H vessel fishing under a scallop DAS may land up to 300 lb (136 kg) tail weight or 996 lb (452 kg) whole weight of monkfish per 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).

(11) *Category C, D, F, G, or H scallop vessels declared into the monkfish DAS program without a dredge on board, or not under the net exemption provision.* Category C, D, G, or H vessels that have declared into the monkfish DAS program and that do not fish with or have a dredge on board, or that are not fishing with a net under the net exemption provision specified in § 648.51(f), are subject to the same landing limits as specified in paragraphs (b)(7) and (b)(8) of this section, or the

landing limit specified in § 648.95(g)(1), if issued a Category F permit. Such vessels are also subject to provisions applicable to Category A and B vessels fishing only under a monkfish DAS, consistent with the provisions of this part.

\* \* \* \* \*

(c) \* \* \*

(9) *Vessels fishing under a NE multispecies DAS*—(i) *NFMA.* Vessels issued a valid monkfish incidental catch (Category E) permit or a valid limited access Category C, D, F, G, or H permit, fishing under a NE multispecies DAS exclusively in the NFMA may land up to 300 lb (136 kg) tail weight or 996 lb (452 kg) whole weight of monkfish per DAS, or 25 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board, whichever is less. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 3.32.

(ii) *SFMA.* If any portion of the trip is fished by a vessel issued a monkfish incidental catch (Category E) permit, or issued a valid limited access Category G or H permit, under a NE multispecies DAS in the SFMA, the vessel may land up to 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor).

(10) *Scallop vessels not fishing under a scallop DAS with dredge gear*—(i) *General provisions.* A vessel issued a valid monkfish incidental catch (Category E) permit and a valid General Category sea scallop permit or a limited access sea scallop vessel not fishing under a scallop DAS, while fishing exclusively with scallop dredge gear as specified in § 648.51(b), may possess, retain, and land up to 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight of monkfish per day or partial day, not to exceed 150 lb (68 kg) tail weight or 498 lb (226 kg) whole weight per trip, unless otherwise specified in paragraph (c)(10)(ii) of this section.

(ii) *Limited access scallop vessels fishing in Sea Scallop Access Areas.* A vessel issued a valid monkfish incidental catch (Category E) permit and a limited access sea scallop permit while fishing exclusively with scallop dredge gear as specified in § 648.51(b), and fishing in one of the established Sea Scallop Access Areas specified under § 648.59, may possess, retain, and land up to 300 lb (136 kg) tail weight or 996 lb (452 kg) whole weight of monkfish per day or partial day fished within the boundaries of the Sea Scallop Access Area. Time within the applicable access



area, for purposes of determining the incidental catch limit, will be determined through the vessel's VMS unit.

\* \* \* \* \*

■ 6. In § 648.95, paragraphs (a)(2), (g)(2), and (g)(3) are suspended and paragraphs (a)(4), (g)(4), and (g)(5) are added to read as follows:

**§ 648.95 Offshore Fishery Program in the SFMA.**

(a) \* \* \*

(4) When not fishing on a monkfish DAS, a Category F vessel may fish under the regulations applicable to the monkfish incidental catch (Category E) permit, specified under § 648.94. When fishing on a NE multispecies DAS in the NFMA, a Category F vessel that also possesses a NE multispecies limited access permit is subject to the possession limits applicable to vessels issued an incidental catch permit as described in § 648.94(c)(9)(i).

\* \* \* \* \*

(g) \* \* \*

(4) The monkfish DAS allocation for vessels issued a Category F permit shall be equal to the trip limit applicable to the vessel's limited access monkfish permit category divided by the fixed daily possession limit specified in paragraph (g)(1) of this section, and then multiplied by the DAS allocation for limited access monkfish vessels fishing in the SFMA and not issued Category F permits, specified under § 648.92(b)(10)(ii). For example, if a vessel has a limited access monkfish Category C permit, and the applicable trip limit is 550 lb (363 kg) for this category, and the vessel has an annual allocation of 12 monkfish DAS for the SFMA, then the monkfish DAS allocated to that vessel when issued a Category F permit would be 4.13 monkfish DAS (550 lb divided by 1,600 lb, multiplied by 12 monkfish DAS, equals 4.13 DAS).

(5) Vessels issued a Category F permit that are fishing under a NE multispecies DAS in the NFMA are subject to the incidental catch limit specified in paragraph (c)(9)(i) of this section.

\* \* \* \* \*

■ 7. In § 648.96, paragraphs (a), (b)(1)–(4) are suspended and paragraphs (b)(5)–(7) are added to read as follows:

**§ 648.96 Monkfish annual adjustment process and framework specifications.**

(b) \* \* \*

(5) *Annual review process.* The Monkfish Monitoring Committee (MFMC) shall meet on or before November 15 of each year to develop options for the upcoming fishing year,

as needed, and options for NEFMC and MAFMC consideration on any changes, adjustment, or additions to DAS allocations, trip limits, size limits, or other measures necessary to achieve the Monkfish FMP's goals and objectives. The MFMC shall review available data pertaining to discards and landings, DAS, and other measures of fishing effort; stock status and fishing mortality rates; enforcement of and compliance with management measures; and any other relevant information.

(6) *Annual Target TACs for FY 2007—*(i) *NFMA.* The annual target TAC for the NFMA is 5,000 mt for FY 2007, unless otherwise recommended by the MFMC through its annual review procedure specified in paragraph (b)(5) of this section, and adopted through the procedures outlined in paragraph (b)(7) of this section.

(ii) *SFMA.* The annual target TAC for the SFMA is 3,667 mt for FY 2007, unless otherwise recommended by the MFMC through its annual review procedure specified in paragraph (b)(5) of this section, and adopted through the procedures outlined in paragraph (b)(7) of this section.

(7) *Council TAC recommendations.* The Councils shall consider any target TAC(s) and/or other management measures recommended by the MFMC as part of its annual review specified in paragraph (b)(5) of this section, and then forward their recommendation to the Regional Administrator. If the Councils recommend target TAC(s) and/or other management measures to the Regional Administrator, and the Regional Administrator concurs with this recommendation, the Regional Administrator shall promulgate the target TAC(s) and/or management measures through rulemaking consistent with the APA. If the Regional Administrator does not concur with the Councils' recommendation, then the Councils shall be notified in writing of the reasons for the non-concurrence.

\* \* \* \* \*

[FR Doc. E7-8117 Filed 4-26-07; 8:45 am]

BILLING CODE 3510-22-S

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 070213032-7032-01; I.D. 042307B]

**Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish, Pacific Ocean Perch, and Pelagic Shelf Rockfish in the Western Regulatory Area and West Yakutat District of the Gulf of Alaska**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for northern rockfish, Pacific ocean perch, and pelagic shelf rockfish for catcher vessels subject to sideboard limits established under the Central GOA Rockfish Program in the Western Regulatory Area and West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the sideboard limits of northern rockfish, Pacific ocean perch, and pelagic shelf rockfish established for catcher vessels in the Western Regulatory Area and West Yakutat District of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), July 1, 2007, through 2400 hrs, A.l.t., July 31, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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 2007 sideboard limits established for catcher vessels subject to sideboard limits in the Central GOA Rockfish Program in the West Yakutat District are 33 mt for Pacific ocean perch and 5 mt for pelagic shelf rockfish. The 2007 sideboard limit established for catcher vessels subject to sideboard limits in the Central GOA Rockfish Program in the Western Regulatory Area are zero mt. The sideboard limits are established by the 2007 and 2008 harvest specifications for groundfish of the GOA (72 FR 9676, March 5, 2007).