

the target TAC would be reduced proportionally from the previous year's landings to end overfishing. When F cannot be determined and the observed biomass index is above the annual index target, the target TAC for the previous year would be increased by the method described above, but not by more than 20 percent of the previous year's landings.

Once the stock in a management area is rebuilt (the observed biomass index is at or above B_{target}), the target TAC would be adjusted based on the ratio of current F to $F_{\text{threshold}}$, allowing for an increase in the target TAC if F is below $F_{\text{threshold}}$. This would set the OY target reference point at $F_{\text{threshold}}$. However, if F cannot be determined and the observed biomass index is above B_{target} , the target TAC would be set at no more than 20 percent above the previous year's landings.

In the situation where landings decline from the previous fishing year and the observed biomass index is above the annual index target, the MFMC would review the circumstances surrounding the landings decline and recommend to the Councils a target TAC equivalent to either the previous year's landings or target TAC. The Councils, after considering the MFMC's recommendation, would then recommend a target TAC to the RA regarding whether the target TAC should be set at the previous year's landings or target TAC. If the RA concurs with this recommendation, the target TAC and associated trip limits would be promulgated through rulemaking and consistent with the requirements of the APA. Otherwise, the RA would notify the Councils in writing of his or her reasons for non-concurrence.

The intent of the Councils in establishing a formulaic method for setting annual target TACs, described above, was to enable the RA to set future TACs and associated management measures outside of the framework adjustment process established in the FMP. In this proposed rule, NMFS is clarifying that the expedited process for setting annual TACs contained in the Framework 2 document is to be done through the rulemaking process specified under the APA.

The Framework 2 document analyzes a range of target TAC alternatives for FY 2004. The intent of this analysis is to facilitate the expedited process for annual adjustments and to provide the public with ample notice of the possible impacts of such adjustments. The expedited annual adjustment process to be established in this framework would not preclude the Councils from

initiating a framework adjustment at anytime to implement other measures deemed necessary to meet the objectives of the FMP.

FY 2003 TACs and Possession Limits

For FY 2003, the TACs under the proposed action would be 10,211 mt in the SFMA and 17,708 mt in the NFMA. As a result, trip limits for monkfish limited access vessels in the SFMA would be increased from FY 2002 (May 1, 2002 – April 30, 2003) levels (550 lb (249.5 kg) tail weight per DAS for Category A and C vessels, and 450 lb (204.1 kg) tail weight per DAS for Category B and D vessels), to 1,250 lb (567 kg) tail weight per DAS for Category A and C vessels, and 1,000 lb (453.6 kg) tail weight per DAS for Category B and D vessels. In the NFMA, there is currently no trip limit for monkfish limited access vessels while fishing under either a monkfish or Northeast (NE) multispecies DAS, and no change is proposed. However, monkfish open-access Category E vessels fishing exclusively in the NFMA on a NE multispecies DAS would have their monkfish incidental catch limits increased from 300 lb (136.1 kg) tail weight per DAS or 25 percent of the total weight of fish on board to the lesser of 400 lb (181.4 kg) tail weight per DAS or 50 percent of total weight of fish on board.

Revision to the Area Declaration Regulations

Regulations implementing the FMP (64 FR 54732; October 7, 1999) specify that a vessel intending to fish for or catch monkfish under a monkfish DAS only in the NFMA must declare into the NFMA for a minimum of 30 days in order to fish under the less restrictive size and trip limits of this management area. However, the FMP also requires vessels fishing under a multispecies or scallop DAS to declare into the NFMA in order to fish under the less restrictive measures of this area. Because NMFS inadvertently referenced only limited access monkfish DAS vessels in the regulations implementing the FMP, Framework 2 proposes to correct the area declaration provision by requiring vessels with limited access multispecies and scallop DAS permits, in addition to vessels possessing limited access monkfish DAS permits, to declare into the NFMA for a minimum of 30 days in order to fish under the less restrictive size and trip limits of this management area.

Revisions to Prohibitions

Since they are ambiguous and do not contain the appropriate cross-references

to the monkfish regulations specified under 50 CFR Part 648 Subpart F, this action also proposes to clarify the monkfish prohibitions found at § 648.14(y).

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866 because it does not have an annual effect on the economy of 100 million dollars or more, or adversely effect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities. The proposed action also does not raise any novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

The Council prepared an initial regulatory flexibility analysis (IRFA) that describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA prepared for this action by the NEFMC follows NMFS' "Guidelines for Economic Analysis of Fishery Management Actions" (NMFS' guidelines). A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY**. A summary of the analysis follows:

There are approximately 714 limited access monkfish permit holders, of which about 85 percent record some monkfish activity. Of the approximately 1,900 open-access Category E permits, only about 25 percent have recorded landing monkfish. Vessels range in size from less than 30 ft (9.14 m) to over 90 ft (27.43 m), with the median being less than 50 ft (15.24 m) in overall length. Most of the inactive vessels (those not landing monkfish or not landing any species) are in the smaller size classes, while 70 percent of the limited access vessels over 50 ft (15.24 m) have recorded monkfish landings. In achieving OY from the fishery on an annual basis while rebuilding the resource to levels that will sustain MSY, the proposed action strikes a reasonable balance between biological requirements and uncertainties, and the financial requirements of small entities.

NMFS' guidelines specify two criteria to be used for evaluating whether a proposed action is significant: Disproportionality and profitability. Disproportionality relates to the effect on small entities compared to large entities. Since all entities engaged in the fishery fall under the Small Business