

for monkfish open-access Category E vessels fishing exclusively in the NFMA on a NE multispecies DAS from the lesser of 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 corrects 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

This action also clarifies the monkfish prohibitions found at 50 CFR 648.14(y) by providing appropriate cross-references to the monkfish regulations specified under 50 CFR part 648 subpart F.

#### Comments and Responses

Two public comments were received in support of Framework 2. An additional comment, from the NEFMC, raised two technical issues with respect to the proposed rule that are addressed in this final rule.

*Comment 1:* The first issue raised by the NEFMC concerns the preamble and regulatory language pertaining to  $F_{\text{threshold}}$ . In Framework 2, the Councils specifically adopted an  $F_{\text{threshold}}$  equivalent to  $F_{\text{max}}$ , which is currently estimated to be  $F=0.2$ . However, the preamble to the proposed rule and the proposed regulatory language at 50 CFR 648.96(b)(1)(ii)(B) state that  $F_{\text{threshold}}$  would be set equal to  $F_{\text{max}}=0.2$ , implying that the Councils adopted a fixed number for  $F_{\text{threshold}}$ . The Councils specifically adopted  $F_{\text{threshold}}=F_{\text{max}}$ , with the intent that  $F_{\text{threshold}}$  would change accordingly if a future Stock

Assessment Workshop recalculates the value of  $F_{\text{max}}$ , requiring no action by the Councils.

*Response:* NMFS acknowledges these oversights in the preamble to the proposed rule and the proposed regulatory text. The preamble to this final rule correctly references the Councils' intent with respect to  $F_{\text{threshold}}$ . In addition, the regulatory language at § 648.96(b)(1)(ii)(B) has been corrected in this final rule to reference that Framework 2 revises the  $F_{\text{threshold}}$  contained in the FMP to be equivalent to  $F_{\text{max}}$ , which is currently estimated to be  $F=0.2$ .

*Comment 2:* A second technical issue raised by the NEFMC concerns the timing of the MFMC's calculation of annual target TACs. The preamble to the proposed rule and the regulatory text at § 648.96(b)(1)(i) indicated a December 1 deadline for the MFMC to submit the target TACs to the Councils and the RA. This issue was not specifically discussed by the MFMC or the Councils, being administrative in nature. The NEFMC expressed concerns regarding the ability of the MFMC to consistently meet this deadline, particularly if there are delays in the fall trawl survey due to bad weather. The NEFMC suggested that NMFS revise this deadline to "as soon as possible after the availability of the trawl survey indices, but no later than January 7." The NEFMC noted that January 7 is consistent with the current deadline for submission of an annual framework adjustment that is recommended as a proposed rule.

*Response:* Although NMFS has some concerns with moving this deadline date to January 7 because it affords less review time by the agency, NMFS feels that the NEFMC's justification is reasonable. As a result, this final rule changes the deadline date for submission of annual target TACs by the MFMC from December 1 to "as soon as possible after the availability of the trawl survey indices, but no later than January 7."

#### Changes From the Proposed Rule

Three changes to the regulatory text in the proposed rule have been made. In § 648.9, paragraph (b)(1)(ii)(B) is revised to clearly reflect the intent of the Councils with respect to the adoption of a revised  $F_{\text{threshold}}$ , i.e., an  $F_{\text{threshold}}$  that is equivalent to  $F_{\text{max}}$ , not a specific  $F$  value. In § 648.96, paragraph (b)(1)(i) is revised to change the deadline date for submission of annual target TACs by the MFMC. This final rule changes the deadline date of December 1 contained in the proposed rule to be "as soon as possible after the availability of the trawl survey indices, but no later than

January 7," as recommended by the NEFMC. In § 648.96, paragraph (b)(2)(ii) is revised to more clearly describe the process by which trip limits would be set for the SFMA to achieve the proposed annual target TAC. This paragraph also incorporates a cross-reference to the analytical procedures outlined in Appendix II to Framework 2.

#### Classification

The RA, determined that Framework 2 is necessary for the conservation and management of the monkfish fishery and that it is consistent with the Magnuson-Stevens Act and other applicable law.

For the reasons stated below, the Assistant Administrator for NOAA (AA) is waiving the 30-day delayed effectiveness period for the management measures contained in Framework 2 pursuant to 5 U.S.C. 553(d)(1). Default management measures scheduled to take effect on May 1, 2003, would eliminate the directed fishery, by allocating zero DAS. These default measures would also reduce incidental monkfish catch limits in other fisheries. However, the results of the most recent stock assessment (SAW 34) indicate that the default management measures scheduled to take effect on May 1, 2003, are unnecessary to achieve the goals of the FMP. Furthermore, the results of the 2002 NMFS fall trawl survey indicate that the monkfish stock in the NFMA is no longer overfished, and that monkfish stock biomass in the SFMA continues to increase, as it has over the past 2 years. The default measures would cause unnecessary, significant negative economic and social impacts to vessels and some communities dependent on the monkfish fishery, based on the findings of the Final Environmental Impact Statement for the FMP and the framework analyses. Moreover, delaying implementation of this rule beyond May 1, 2003, would likely result in increased monkfish bycatch as a result of the reduced incidental catch limits. Therefore, this rule relieves a restriction.

The Council prepared an environmental assessment (EA) for this framework and the AA concluded that there will be no significant impact on the human environment as a result of this rule. This action establishes an automatic method for setting annual TACs that is consistent with the stock rebuilding program in the FMP. As a result of increasing biomass in both management areas, this action increases the target TACs in both areas, resulting in an increase in the trip limits for limited access monkfish vessels fishing