

ISFMP, and consistent with the national standards set forth in section 301 of the Magnuson-Stevens Act.

The Assistant Administrator for Fisheries, NOAA (AA) has determined that these actions are compatible with the effective implementation of the Commission's ISFMP for Weakfish and consistent with the national standards of the Magnuson-Stevens Fishery Conservation and Management Act.

NMFS did not receive any comments on the economic impacts of the rule. NMFS prepared a final regulatory flexibility analysis (FRFA) that describes the impact of this final rule on small entities. A summary of the FRFA follows:

This final rule is published under the authority of section 803 of the Atlantic Coastal Act. The purpose of the rule is to improve cooperative management of the Atlantic coast weakfish fishery by supporting the Commission's Amendment 4 to the Interstate Fishery Management Plan for Weakfish, as required under the Atlantic Coastal Act. This rule will increase the permitted non-directed incidental catch of the species from 150 lb (67 kg) to no more than 300 lb (135 kg) per day or trip. Analysis of the best available data in the EA/RIR/FRFA suggests that the increase would not alter current fishing practices or effort, or increase the number of weakfish caught. The 150-lb (67 kg) increase would simply convert 150 lb (67 kg) of weakfish, which would be caught and discarded at sea as dead bycatch, into 150 lb (67 kg) of weakfish caught as incidental catch and landed. The need for the action was explained in the preamble to the proposed rule and is not repeated here.

Two alternatives were considered for this action. They were: Alternative 1: No Action; and Alternative 2 (Preferred Alternative): Allow vessels in non-directed fisheries, using mesh sizes less than 3 1/4-inch (8.3 cm) square stretch mesh or 3 3/4-inch (9.5 cm) diamond stretch mesh for trawls and 2 7/8-inch (7.3 cm) stretch mesh for gillnets to possess no more than 300 lb (135 kg) of weakfish during any one day or trip, whichever is longer in duration. Although a third alternative was identified in the environmental assessment, it would not meet the goals and objectives of the Commission's recommendation. Because the Secretary is required to develop and implement a program to support the Commission's action, analysis of this additional alternative would not meet the purpose and need for this action, or objectives of the Atlantic Coastal Act.

The preferred alternative would allow vessels in non-directed fisheries, using

a mesh size less than 3 1/4-inch (8.3 cm) square stretch mesh or 3 3/4-inch (9.5 cm) diamond stretch mesh for trawls and 2 7/8-inch (7.3 cm) stretch mesh for gillnets, to possess no more than 300 lb (135 kg) of weakfish during any one day or trip, whichever is longer in duration (an increase of 150 lb (67 kg)).

NMFS is not able to estimate the number of small entities to which the action would apply because vessels most likely to be impacted are not required to hold a permit to fish for weakfish in the EEZ. In the proposed rule, NMFS requested specifically that the public comment on the number of small entities likely to be affected. However, NMFS did not receive any information pertaining to the number of small entities and is therefore not able to estimate further the number of entities to which this rule will apply. Although the number of small entities cannot be estimated, NMFS believes the action would only apply to those fishermen who capture weakfish incidentally while fishing for other species using a smaller mesh size than is allowed in the directed weakfish fishery. In addition, under Alternative 1, status quo, no additional small entities would be impacted; while implementation of Alternative 2 would apply to fishermen who use nets with smaller mesh sizes and catch over 150 lb (67 kg) of weakfish on a given day or trip. During 1998 - 2002, vessel trip reports indicated that only 1,116 small mesh otter trawl trips and 4 small mesh gillnet trips landed weakfish caught while fishing in the EEZ. The average price received by fishermen reporting weakfish catch in the EEZ in 2001 was \$0.614 per lb. If an affected vessel were to land 150 lb (67 kg) of weakfish, as currently permitted (Alternative 1), \$92 in revenue could be realized, per trip. If Alternative 2 were implemented, an additional \$92 in revenue, for a weakfish total of \$184 per trip (double the current amount) would be possible. For a more accurate picture of the expected economic impacts for the two alternatives, actual catches from individual vessel trip records, from 1998 - 2002, were multiplied by average price-per-pound of weakfish from the EEZ to determine estimated revenues per trip. Since vessels may not catch the full 150 lb (67 kg) or 300 lb (135 kg) allowed in Alternative 1 and 2, revenues for each Alternative were projected as the average for those trips that reported from 1 to 150 lb (67 kg) (Alternative 1) and from 151 to 300 lb (135 kg) (Alternative 2). Catches from trips that reported over 300 lb (135 kg) were

capped at the 300 lb (135 kg) proposed limit (Alternative 2) for these calculations. Calculated revenues for sale of allowed weakfish landings under Alternative 1 averaged \$22; potential revenues for Alternative 2 were estimated at \$160 per trip. Based on 1998 - 2002 vessel trip data, total annual revenues for all non-directed weakfish trips, coastwide are projected to be about \$6,200 under Alternative 1, and about \$7,800, if Alternative 2 were to be implemented. A copy of the FRFA is available from NMFS (see ADDRESSES).

There will be no reporting and recordkeeping requirements resulting from this action.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 697

Fisheries, Fishing.

Dated: September 24, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR chapter VI, part 697, is amended as follows:

PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

■ 1. The authority citation for part 697 is revised to read as follows:

Authority: 16 U.S.C. 5101 *et seq.*

■ 2. In § 697.2, the definitions for "Atlantic Coastal Act" and "Director" are added in alphabetical order to read as follows:

§ 697.2 Definitions.

* * * * *

Atlantic Coastal Act means the Atlantic Coastal Fisheries Cooperative Management Act, as amended (16 U.S.C. 5101 *et seq.*).

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Director means the Director of the Office of Sustainable Fisheries, 1315 East-West Highway, Silver Spring, MD 20910

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■ 3. Section 697.7, paragraph (a)(4) and (a)(7) are revised to read as follows:

§ 697.7 Prohibitions.

(a) * * *

(4) Possess more than 300 lb (135 kg) of weakfish during any one day or trip, whichever is longer, in the EEZ when using a mesh size less than 3 1/4-inch (8.3 cm) square stretch mesh (as measured between the centers of opposite knots when stretched taut) or