

management measures achieves the same level of conservation as would Federal coastwide measures developed to achieve the annual recreational harvest limit. The conservation equivalency approach allows states flexibility in the specification of management measures, unlike the application of one set of coastwide measures. It is not possible to further mitigate economic impacts on small entities because the specification of the recreational management measures (minimum fish size, possession limits, and fishing seasons) contained in this final rule is constrained by the conservation objectives of the FMP.

The economic analysis conducted in support of this action assessed the impacts of the various management alternatives. In the EA, the no action alternative for each species is defined as the continuation of the management measures as codified for the 2005 fishing season. For summer flounder, although the status quo measures would be expected to constrain landings to the 2006 target, state-specific implications of the no-action (coastwide) alternative would be varied, with the coastwide measures being more restrictive than the conservation equivalent measures for some states and less restrictive for others. Conservation equivalency allows each state to tailor specific recreational fishing measures to the needs of that state, while still achieving conservation goals. The implications of the no-action alternative are not substantial for scup and black sea bass. Landings of these species in 2005 were less than their respective targets, and the status quo measures are expected to constrain landings to the 2006 targets. The no-action measures were analyzed in Summer Flounder Alternative 2, Scup Alternative 1, and Black Sea Bass Alternative 1.

At this time, it is not possible to determine the economic impact of summer flounder conservation equivalency on each state. However, it is likely to be proportional to the level of landings reductions required. If the conservation equivalency alternative is effective at achieving the recreational harvest limit, then it is likely to be the only alternative that minimizes economic impacts, to the extent practicable, yet achieves the biological objectives of the FMP. Under § 648.107, vessels landing summer flounder in any state that does not implement conservation equivalent measures are subject to the precautionary default measures, consisting of an 18-inch (45.7-cm) minimum fish size, a possession limit of one fish, and no closed season. The suites of

conservation equivalent measures proposed by each state are less restrictive than the precautionary default measures. Therefore, because states have a choice as to the specific measures to apply to landings in each state, it is more rational for the states to adopt conservation equivalent measures that result in fewer adverse economic impacts than to adopt the more restrictive measures contained in the precautionary default alternative.

For the proposed rule, average party/charter losses for each of the 18 potential combinations of alternatives were estimated for federally permitted vessels by multiplying the number of potentially affected trips in 2006 in each state by the estimated average access fee paid by party/charter anglers in the Northeast Region in 2005. Predicted average losses for NY were presented as an example, and ranged from \$1,582 per vessel under the combined effects of Summer Flounder Alternative 2, Scup Alternative 3, and Black Sea Bass Alternative 2, to \$6,924 per vessel under the combined effects of the summer flounder precautionary default (considered in Summer Flounder Alternative 1), Scup Alternative 2, and Black Sea Bass Alternative 3 (assuming a 25-percent reduction in effort for affected trips).

#### *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 letter to permit holders that also serves as the small entity compliance guide (the guide) was prepared and will be sent to all holders of Federal party/charter permits issued for the summer flounder, scup, and black sea bass fisheries. In addition, copies of this final rule and the guide are available from NMFS (see *ADDRESSES*) and at the following Web site: <http://www.nero.noaa.gov>.

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

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 17, 2006.

**William T. Hogarth**,  
Assistant Administrator for Fisheries,  
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 § 648.107, paragraph (a) introductory text is revised to read as follows:

#### **§ 648.107 Conservation equivalent measures for the summer flounder fishery.**

(a) The Regional Administrator has determined that the recreational fishing measures proposed to be implemented by Massachusetts through North Carolina for 2006 are the conservation equivalent of the season, minimum fish size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

\* \* \* \* \*

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#### **DEPARTMENT OF COMMERCE**

#### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

[Docket No., I.D. 050906B]

#### **Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Allocation of Trips to Closed Area (CA) II Yellowtail Flounder Special Access Program (SAP)**

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

**ACTION:** Temporary rule; notification of maximum number of trips.

**SUMMARY:** NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator) is allocating, using the formula implemented by Framework Adjustment (FW) 40B, zero trips into the CA II Yellowtail Flounder SAP for the 2006 NE multispecies fishing year (FY). The intent of this

action is to provide a sustainable fishery throughout FY 2006.

**DATES:** Effective July 1, 2006, through April 30, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Moira Kelly, Fishery Management Specialist, phone: (978) 281-9218, fax: (978) 281-9135, e-mail: [moira.kelly@noaa.gov](mailto:moira.kelly@noaa.gov).

**SUPPLEMENTARY INFORMATION:** FW 40B, developed by the New England Fishery Management Council (Council) and approved and implemented on June 1, 2005, requires the Regional Administrator to allocate, prior to June 1 of each year, the total number of trips into the CA II Yellowtail Flounder SAP based on the Georges Bank (GB) yellowtail flounder total allowable catch (TAC), as established through the U.S./Canada Resource Sharing Understanding, and the amount of GB yellowtail flounder caught outside of the SAP. FW 40B established the following formula for determining the appropriate number of trips for this SAP on a yearly basis to help achieve optimum yield (OY) of GB yellowtail flounder: Number of trips = (GB yellowtail flounder TAC - 1,946 mt) / 4.54 mt. Note that 4.54 mt is equivalent to 10,000 lb (4,536 kg). This formula assumes that, similar to the calculation that was done for FY 2005, 94 percent of the GB yellowtail flounder TAC (i.e., 1,946 mt) will be caught outside of the CA II Yellowtail Flounder SAP. The formula results in an allocation of only 27 trips for FY 2006. However, if it is determined that the catch available for the SAP (i.e., GB yellowtail flounder TAC - GB yellowtail flounder caught outside SAP) is not sufficient to support 150 trips with a 15,000-lb (6,804-kg) trip limit, or that at least 1,020 mt are available for the SAP, the Regional Administrator may choose to not allocate any trips to the SAP. However, the FY 2006 GB yellowtail flounder TAC (2,070 mt) less the amount of GB yellowtail that will be caught outside of the SAP is only 124 mt. It would not be feasible or equitable to allocate and monitor such a low number of trips across the fleet. Allocating such a low number of trips fleet-wide would likely cause a derby fishery which would be impossible to monitor and control in such a way to ensure that the low available catch is not exceeded. Therefore, based on the final rule implementing the 2006 U.S./Canada GB yellowtail flounder TAC (71 FR 25095; April 28, 2006), which was recommended by the Transboundary Management Guidance Committee and the Council for FY 2006, and using the criteria specified under

§ 648.85(b)(3)(vii) to determine the appropriate number of trips for FY 2006, the Regional Administrator has determined that there will be insufficient GB yellowtail flounder TAC to support the CA II Yellowtail Flounder SAP for FY 2006. As such, zero trips will be available for FY 2006.

**Classification**

This action is required by § 648.85(b)(3)(vii) and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator finds good cause to waive prior notice and opportunity for public comment for this action because any delay of this action would be impracticable and contrary to the public interest. Additional prior notice and opportunity for public comment would delay the implementation of the action which could potentially lead to the opening of this SAP during FY 2006. Opening of this SAP during FY 2006 could prematurely close the Eastern U.S./Canada Area, as increased catches of GB yellowtail flounder from this SAP would likely result in the early attainment of the U.S./Canada Management Area TAC for GB yellowtail flounder. Such a closure would reduce sources of potential revenue, decreased economic returns, and lead to further adverse economic impacts to the fishing industry, not only from GB yellowtail flounder, but from GB cod and GB haddock as well. In addition, the potential for an unexpected opening and rapid closure of this SAP following the consideration of additional public comment could create confusion in the fishing industry. Therefore, given the potential negative impacts resulting from delayed implementation of this action, as described above, it would be impracticable and contrary to the public interest to provide further notice and opportunity for public comment. Any detrimental effect of foregoing prior notice and comment for this action is mitigated because the possibility of this closure was contemplated during the development of FW 40B and commented on by the public. In addition, the Council and public were consulted about this action during the April 4, 2006, Council meeting, at which time there was opportunity for additional public comment.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: May 16, 2006.

**Alan D. Risenhoover,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

**[Docket No. 060424110-6110-01; I.D. 081304C]**

**RIN 0648-AU39**

**Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures; Correction**

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

**ACTION:** Final rule; request for comments; correction.

**SUMMARY:** This final rule establishes the 2006 fishery specifications for Pacific whiting (whiting) in the U.S. exclusive economic zone (EEZ) and state waters off the coasts of Washington, Oregon, and California, as authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP). It also adjusts the bycatch limits in the whiting fishery. This **Federal Register** document also corrects the final rule implementing the specifications and management measures, which was published December 23, 2004. These specifications include the level of the acceptable biological catch (ABC), optimum yield (OY), tribal allocation, and allocations for the non-tribal commercial sectors. The intended effect of this action is to establish allowable harvest levels of whiting based on the best available scientific information.

**DATES:** Effective May 19, 2006.

Comments on the revisions to bycatch limits must be received no later than 5 p.m., local time on June 6, 2006.

**ADDRESSES:** You may submit comments, identified by I.D. 081304C by any of the following methods:

- E-mail:

*Whiting2006OY.nwr@noaa.gov*; Include I.D. 081304C in the subject line of the message.

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: 206-526-6736, Attn: Becky Renko