

Dated: February 27, 2008.

**James P. Burgess**

*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 697

[Docket No. 070717344-8150-01; I.D. 041907A]

RIN 0648-AV44

#### Atlantic Coastal Fisheries Cooperative Management Act Provisions; Weakfish Fishery

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to decrease the incidental catch allowance for weakfish caught in the Exclusive Economic Zone (EEZ) from 300 lb (135 kg) to no more than 150 lb (67 kg) per day or trip, whichever is longer in duration. The intent of this final rule is to modify regulations for the Atlantic coast stock of weakfish to be consistent with the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan (ISFMP) for weakfish, as set forth in the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act).

**DATES:** Effective April 3, 2008.

**ADDRESSES:** Copies of supporting documents are available from Chris Moore, Chief, Partnerships and Communications Division (SF8), Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, Suite 13317, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Brian Hooker, 301-713-2334.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Commission approved Addendum II to Amendment 4 of the

Weakfish ISFMP in February 2007. Included in the management measures for this addendum was a reduction of the bycatch limit of weakfish in commercial fisheries from 300 lb (135 kg) to 150 lb (67 kg). These measures were developed in response to recent stock assessment data that suggested low weakfish biomass. While the reduced bycatch provision would not itself resolve the biomass issue, the Commission thought it a measure that might potentially slow the decline and have some positive effect. A more detailed discussion of the stock assessment and Commission action is set forth in the proposed rule for this action that was published in the **Federal Register** on June 14, 2007 (72 FR 32830).

NMFS analyzed the Commission's bycatch recommendation and similarly concluded that although the measure would not itself remedy the low weakfish biomass, the recommendation appeared reasonable, prudent and positive. The measure would also support the Commission's Weakfish ISFMP and, importantly, would further the consistency between State and Federal weakfish regulations.

#### Comments and Responses

NMFS received no public comments on the proposed rule for this action.

#### Classification

This final rule is published under the authority of the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act), Paragraphs (A) and (B) of section 804(b) (1) of the Atlantic Coastal Act, 16 U.S.C. 5103(a)-(b), authorizes the Secretary of Commerce to implement regulations in the EEZ in the absence of a Magnuson-Stevens Fishery Conservation Management Act (Magnuson-Stevens Act) fishery management plan. Such regulations must be compatible with the effective implementation of a Commission's ISFMP, and consistent with the national standards set forth in section 301 of the Magnuson-Stevens Act.

The Assistant Administrator for Fisheries has determined that this action is compatible with the effective implementation of the Commission's ISFMP for weakfish and consistent with

the national standards of the Magnuson-Stevens Act.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

#### List of Subjects in 50 CFR Part 697

Fisheries, Fishing.

Dated: February 28, 2008.

**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 697, is amended as follows:

#### PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

■ 1. The authority citation for 50 CFR part 697 continues to read as follows:

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

■ 2. In § 697.7, paragraph (a) (4) is revised to read as follows:

#### § 697.7 Prohibitions.

(a) \* \* \*

(4) Possess more than 150 lb (67 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 3 3/4-inch (9.5cm) diamond stretch mesh for finfish trawls and 2 7/8-inch (7.3 cm) stretch mesh for gillnets.

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