

## 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: May 3, 2007.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. E7-9130 Filed 5-10-07; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

[Docket No. 070427094-7094-01; I.D. 042407A]

RIN 0648-AV50

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

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), is proposing to allocate zero trips in the Closed Area (CA) II Yellowtail Flounder Special Access Program (SAP) during the 2007 fishing year (FY) (i.e., May 1, 2007, through April 30, 2008). The Regional Administrator has determined that the available catch of Georges Bank (GB) yellowtail flounder is insufficient to support a minimum level of fishing activity within the CA II Yellowtail Flounder SAP for FY 2007. The intent of this action is to help achieve optimum yield (OY) in the fishery by maximizing the utility of available GB yellowtail flounder TAC throughout FY 2007.

**DATES:** Comments must be received on or before 5 p.m., local time, May 29, 2007.

**ADDRESSES:** You may submit comments by any of the following methods:

- Written comments (paper, disk, or CD-ROM) should be sent to Patricia A. Kurkul, Regional Administrator, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on CA II YT SAP."

• Comments also may be sent via facsimile (fax) to (978) 978-9135.

• E-mail: [YellowtailSAP@Noaa.gov](mailto:YellowtailSAP@Noaa.gov)  
Include in the subject line the following "Comments on CA II YT SAP."

• Federal e-Rulemaking Portal: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Mark Grant, Fishery Management Specialist, phone: (978) 281-9218, fax: (978) 281-9135, e-mail: [Mark.Grant@noaa.gov](mailto:Mark.Grant@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The final rule implementing Framework Adjustment (FW) 40B (70 FR 31323; June 1, 2005), authorized the Regional Administrator to allocate the total number of trips into the CA II Yellowtail Flounder SAP based upon several criteria, including: GB yellowtail flounder total allowable catch (TAC) level, as established through the U.S./Canada Resource Sharing Understanding; and the amount of GB yellowtail flounder caught outside of the SAP. A formula was developed in FW 40B to assist the Regional Administrator in determining the appropriate number of trips for this SAP on a yearly basis. The formula is intended to allow the SAP to be adjusted for changing stock conditions to help achieve OY for GB yellowtail flounder.

FW 40B authorized the Regional Administrator to allocate zero trips to this SAP if the available GB yellowtail flounder catch (GB yellowtail flounder TAC projected catch of GB yellowtail flounder outside the SAP) is not sufficient to support 150 trips with a 15,000-lb (6,804-kg) trip limit (i.e., if the available GB yellowtail catch is less than 1,021 mt), as required. The proposed U.S./Canada GB yellowtail flounder TAC for 2007, as recommended by the Transboundary Management Guidance Committee and the Council, is 900 mt (72 FR 10967; March 12, 2007). During FY 2006, vessels fishing outside of the SAP landed over 1,500 mt of GB yellowtail flounder. Therefore, based on the proposed 900-mt U.S./Canada GB yellowtail flounder TAC, assuming similar fishing behavior in 2007, and using the criteria specified under § 648.85(b)(3)(vii) to determine the appropriate number of trips for FY 2007, the Regional Administrator has determined that there will be insufficient GB yellowtail flounder TAC to support the CA II Yellowtail Flounder SAP for FY 2007 (900 mt - 1,500 mt < 1,020 mt). Therefore, a limit of zero trips is proposed for FY 2007.

**Classification**

Pursuant to section 304 (b)(1)(A) of the Magnuson-Stevens Act, I have determined that this proposed rule is consistent with the NE Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

The SBA size standard for small commercial fishing entities is \$ 4.0 million in gross receipts. Individuals that would be impacted by this proposed action include all limited access NE multispecies DAS permit holders. All commercial fishing entities affected by this proposed rule would fall under the SBA size standard for small commercial fishing entities and there would be no disproportionate impacts between small and large entities. The proposed action would affect a substantial number of small entities, as approximately 66 percent of the vessels affected by this action (i.e., 100 out of 150) had participated in the CA II Yellowtail Flounder SAP when it was open during FY 2004. However, the proposed action will not significantly reduce profit for affected vessels.

The proposed allocation of zero trips into the SAP would help ensure that the GB yellowtail flounder TAC is available throughout the fishing year, minimizing the impacts of depressed prices that could otherwise be caused by temporary floods of yellowtail flounder on the market, and therefore would help avoid the premature closing of the Eastern U.S./Canada Area due to catching the available GB yellowtail flounder TAC. This would enable vessels greater opportunity to fully harvest the available GB cod and GB haddock TAC allocated to the Eastern U.S./Canada Area and to achieve the full economic benefit from the U.S./Canada Management Area by more efficiently using the small GB yellowtail flounder TAC. Analysis prepared for FW 40B indicates that flexibility for vessels to target species other than yellowtail flounder is seen as critical to maintaining the profitability of vessel operations within the U.S./Canada

Management Area, including the SAP, given the costs associated with fishing far offshore. Because the proposed action would maintain access to the Eastern U.S./Canada Area throughout the fishing year, this action attempts to preserve the flexibility for vessels to operate in an efficient and cost-effective manner that would maximize the profitability of vessel operations. Since the SAP was closed to fishing for FY 2006, there would be no change in profitability to individual vessels (compared to last year) resulting from the proposed zero allocation, thus, no economic impact to affected small harvesters.

This proposed rule does not contain any new, nor revised existing reporting, recordkeeping, and other compliance requirements.

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

Dated: May 7, 2007.

**William T. Hogarth,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

[FR Doc. E7-9092 Filed 5-10-07; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 665

[Docket No. 070427093-7093-01; I.D. 041807A]

**RIN 0648-AV55**

#### Fisheries in the Western Pacific; Western Pacific Pelagic Fisheries; Control Date

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

**ACTION:** Advance notice of proposed rulemaking; notification of control date; request for comments.

**SUMMARY:** NMFS announces that anyone who enters the Hawaii-based pelagic charter fishery after March 16, 2007 (the "control date"), is not guaranteed future participation in the fishery if the Western Pacific Fishery Management Council (Council) recommends, and NMFS approves, a program that limits entry into the fishery, or other fishery management measures. The Council is concerned about expansion of the Hawaii-based pelagic charter fishery and the potential resultant impacts on billfish and other pelagic fishes.

**DATES:** Comments must be submitted in writing by July 10, 2007.

**ADDRESSES:** You may submit comments on this action, identified by 0648-AV55, by any of the following methods:

- E-mail:

*AV55ControlCharter@noaa.gov*. Include "AV55" in the subject line of the e-mail comment. Comments sent via e-mail, including all attachments, must not exceed a 10 megabyte file size.

- Federal e-Rulemaking portal: *www.regulations.gov*. Follow the instructions for submitting comments.

- Mail: William L. Robinson, Regional Administrator, NMFS Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814.

**FOR FURTHER INFORMATION CONTACT:** Bob Harman, NMFS PIR, 808-944-2234.

**SUPPLEMENTARY INFORMATION:** At its 137th meeting held from March 13-16, 2007, the Council adopted a control date of March 16, 2007, applicable to persons who are contemplating entering the Hawaii-based charter fishery for pelagic fishes. The purpose of the control date is to notify fishermen that after March 16, 2007, they may not be guaranteed access to the fishery if the Council recommends, and NMFS approves, establishing a limited entry program or other measures to manage the fishery. The Council has not yet recommended limiting new entry or imposing any other management measures in this fishery.

Establishment of a control date responds to the Council's concern over any significant expansion of the Hawaii-based pelagic charter fishery, and its potential to impact billfish and other pelagic fishes. This concern is focused on the Kona coast of the island of Hawaii, where there is a planned expansion of the Honokohau Harbor. A larger harbor could provide more berths for charter fishing vessels, with a resulting increase in fishing effort for pelagic fishes, such as blue marlin (Makaira mazara). State of Hawaii fishery data indicate that blue marlin catch per unit effort from Kona-based pelagic charter fishing has declined significantly over the past 20 years. Similar trends are also apparent for pelagic charter fishing data from the other Hawaiian islands.

Pelagic charter fishing, conducted from small vessels that primarily target billfishes and tunas and are chartered for a fee, is a notable component of tourism in Hawaii. Total generated revenues were estimated at \$17 million in 1990, and \$16.5 million in 1992. The industry attracted an estimated 77,000

annual participants in 1994, and employed approximately 400 captains and crew members in 1997. Because at least a portion of the catch is typically sold, pelagic charter fishing in Hawaii is classified as a commercial fishery, requiring State of Hawaii commercial marine licenses and catch reporting. The State of Hawaii issued 121 commercial marine licenses to vessels for pelagic charter fishing in 2005, and the reported catch from pelagic charter vessels in 2005 was 478,650 lb (217,112 kg). In 2006, 119 licensed fishermen submitted fishing reports that reported a total of 9,535 charter trips, or an average of 80.1 trips per vessel.

The March 16, 2007, control date adopted by the Council complements a control date of June 2, 2005, established for non-longline commercial pelagic fisheries in Hawaii (70 FR 47781, August 15, 2005) in response to concerns about overfishing of bigeye tuna Pacific-wide and yellowfin tuna in the central and western Pacific.

Control dates are intended to discourage speculative entry into fisheries, as new participants entering the fisheries after the control date are put on notice that they are not guaranteed future participation in the fisheries. Establishment of this control date does not commit the Council or NMFS to any particular management regime or criteria for entry into the Hawaii-based pelagic charter fishery. Fishermen are not guaranteed future participation in the fishery, regardless of their level of participation before or after the control date. The Council may choose a different control date, or it may choose a management regime that does not involve a control date. Other criteria, such as documentation of landings or sales, may be used to determine eligibility for participation in a limited access fishery. The Council or NMFS also may choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded.

#### Classification

This advance notice of proposed rulemaking has been determined to be not significant for the purposes of Executive Order 12866.

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

Dated: May 7, 2007.

**William T. Hogarth,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

[FR Doc. E7-9090 Filed 5-10-07; 8:45 am]

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