

**§ 411.53 Basis for conditional Medicare payment in no-fault cases.**

(a) A conditional Medicare payment may be made in no-fault cases under either of the following circumstances:

(1) The beneficiary has filed a proper claim for no-fault insurance benefits but the intermediary or carrier determines that the no-fault insurer will not pay promptly for any reason other than the circumstances described in § 411.32(a)(1). This includes cases in which the no-fault insurance carrier has denied the claim.

(2) The beneficiary, because of physical or mental incapacity, failed to meet a claim-filing requirement stipulated in the policy.

(b) Any conditional payment that CMS makes is conditioned on reimbursement to CMS in accordance with subpart B of this part.

**PART 411—[NOMENCLATURE CHANGE]**

■ 12. In part 411, revise all references to “third party payer” to read “primary payer”; revise all references to “third party payment” to read “primary payment”; and revise all references to “third party plan” to read “primary plan”.

**PART 489—PROVIDER AGREEMENTS AND SUPPLIER APPROVAL**

■ 1. The authority citation for part 489 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act.

**§ 489.20 [Amended]**

■ 2. Section § 489.20(i)(2)(ii) introductory text is amended by removing the words “third party payment” and adding in its place the words “primary payment”.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 8, 2006.

**Mark B. McClellan,**

*Administrator, Centers for Medicare & Medicaid Services.*

Approved: November 14, 2005.

**Michael O. Leavitt,**

*Secretary, Department of Health and Human Services.*

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 051128313-6029-02; I.D. 111705C]

RIN 0648-AT20

**Fisheries of the Northeastern United States; Atlantic Bluefish Fisheries; 2006 Atlantic Bluefish Specifications; Quota Adjustment; 2006 Research Set-Aside Project**

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

**ACTION:** Final rule; final specifications for the 2006 Atlantic bluefish fishery.

**SUMMARY:** NMFS issues 2006 specifications for the Atlantic bluefish fishery, including state-by-state commercial quotas, a recreational harvest limit, and recreational possession limits for Atlantic bluefish off the east coast of the United States. The intent of these specifications is to establish the allowable 2006 harvest levels and possession limits to attain the target fishing mortality rate (F), consistent with the stock rebuilding program in Amendment 1 to the Atlantic Bluefish Fishery Management Plan (FMP). This action will publish final specifications that are modified from those contained in the proposed rule.

**DATES:** This rule is effective March 27, 2006, through December 31, 2006.

**ADDRESSES:** Copies of the specifications document, including the Environmental Assessment (EA) and the Initial Regulatory Flexibility Analysis (IRFA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901 6790. The specifications document is also accessible via the Internet at <http://www.nero.nmfs.gov>.

The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, public comments and responses contained in this final rule, and a summary of impacts and alternatives contained in this final rule.

The small entity compliance guide is available from Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930 2298.

The Northeast Fisheries Science Center 41st Stock Assessment Review Committee (SARC) Panelist Reports are available at: <http://www.nefsc.noaa.gov/nefsc/saw/saw41/>.

**FOR FURTHER INFORMATION CONTACT:**

Bonnie Van Pelt, Fishery Policy Analyst, (978) 281-9244.

**SUPPLEMENTARY INFORMATION:****Background**

The regulations implementing the Atlantic Bluefish Fishery Management Plan (FMP) appear at 50 CFR part 648, subparts A and J. Regulations requiring annual specifications are found at 50 CFR 648.160. The management unit for bluefish (*Pomatomus saltatrix*) is U.S. waters of the western Atlantic Ocean.

The FMP requires that the Mid-Atlantic Fishery Management Council (Council) recommend, on an annual basis, total allowable landings (TAL) for the fishery, consisting of a commercial quota and recreational harvest limit.

The annual review process for bluefish requires that the Council's Bluefish Monitoring Committee (Monitoring Committee) review and make recommendations based on the best available data including, but not limited to, commercial and recreational catch/landing statistics, current estimates of fishing mortality, stock abundance, discards for the recreational fishery, and juvenile recruitment. Based on the recommendations of the Monitoring Committee, the Council makes a recommendation to NMFS. This FMP is a joint plan with the Atlantic States Marine Fisheries Commission (Commission); therefore, the Commission meets during the annual specification process to adopt complementary measures.

The Council's recommendations must include supporting documentation concerning the environmental, economic, and social impacts of the recommendations. NMFS is responsible for reviewing these recommendations to ensure they achieve the FMP objectives, and may modify them if they do not. NMFS then publishes proposed specifications in the Federal Register. After considering public comment, NMFS publishes final specifications in the Federal Register.

In July 2005, the Monitoring Committee accepted the most recent bluefish stock assessment as the basis for its specification recommendations to the Council. In August 2005, the Council approved the Monitoring Committee's recommendations and the Commission's Bluefish Board (Board) adopted complementary management measures.

## Final Specifications

### Stock Assessment

The SARC rejected the previous bluefish assessment in 2004, because of the instability of estimates derived from a catch/effort stock assessment model. A new model, called the age-structured assessment program (ASAP) model was used to assess the bluefish stock in 2005 and was reviewed by the SARC during the 41st Stock Assessment Workshop (SAW-41) in June 2005. The ASAP model is based on new methods for calculating biological reference points and biomass estimates (i.e., thresholds and targets for defining whether bluefish is overfished or whether overfishing is occurring). Although there were opposing viewpoints regarding the use of the ASAP model among the participating SAW-41 panel members, two of the three panelists felt that the assessment was adequate for management purposes. The panelists also recognized the need for a recreational catch rate abundance index, better information on discard rates and mortality, and an improved modeling approach (see **ADDRESSES** for link to panelist reports).

According to Amendment 1 to the FMP (Amendment 1), overfishing for bluefish occurs when the target fishing mortality rate ( $F$ ) exceeds the fishing mortality rate that allows maximum sustainable yield ( $F_{MSY}$ ), or the maximum  $F$  threshold. The stock is considered overfished if the biomass ( $B$ ) falls below the minimum biomass threshold, which is defined as  $1/2 B_{MSY}$ . The Amendment also established that the long term target  $F$  ( $F_{0.1}$ ) is 90 percent of  $F_{MSY}$ , and the long term target  $B$  is  $B_{MSY}$ .

The SAW-41 model results generated new biological reference points: (1) Maximum fishing mortality threshold or  $F_{MSY} = 0.19$ ; (2)  $F_{0.1} = 0.18$ , the long term fishing mortality target; (3) minimum biomass threshold, or  $1/2 B_{MSY} = 73.5$  million lb (33,351 mt); and (4)  $B_{MSY} = 147$  million lb (66,678 mt), the long term biomass target. Based on the new biological reference points, and the 2004 estimate of bluefish stock biomass (104 million lb (47,235 mt)), the bluefish stock is not considered overfished. Estimates of fishing mortality have declined from 0.41 in 1991 to 0.15 in 2004. Therefore, the new model results also conclude that the Atlantic stock of bluefish is not experiencing overfishing, i.e., the model estimated the maximum fishing mortality threshold,  $F_{MSY} = 0.19$ , and  $F_{2004} = 0.15$ , therefore  $F_{2004}$  is less than  $F_{MSY}$ .

### 2006 TAL

The FMP specifies that the bluefish stock is to be rebuilt to  $B_{MSY}$  over a 9-year period. The FMP requires the Council to recommend, on an annual basis, a level of total allowable catch (TAC) consistent with the rebuilding program in the FMP. An estimate of annual discards is deducted from the TAC to calculate the TAL that can be taken during the year by the commercial and recreational fishing sectors combined. The TAL is composed of a commercial quota and a recreational harvest limit. The FMP rebuilding program requires the TAC for any given year to be set based either on the target  $F$  resulting from the stock rebuilding schedule specified in the FMP (0.31 for 2006), or the  $F$  estimated in the most recent fishing year ( $F_{2004} = 0.15$ ), whichever is lower. Therefore, the 2006 recommendation is based on an estimated  $F$  of 0.15. Furthermore, the best information available indicates that the TAC of 29.15 million lb (13,222 mt) could achieve the target  $F$  ( $F = 0.15$ ) in 2006, based on biomass estimates and associated yields that were projected using the ASAP model from SAW-41 in 2005.

The TAL for 2006 is derived by subtracting an estimate of discards of 4.35 million lb (1,973 mt), the average discard level from 2000-2004, from the TAC. After subtracting estimated discards, the 2006 TAL is approximately 24 percent less than the 2005 TAL, or 24.80 million lb (11,249 mt). Based strictly on the percentages specified in the FMP (17 percent commercial, 83 percent recreational), the commercial quota for 2006 would be 4,215,802 lb (1,912 mt), and the recreational harvest limit would be 20,583,033 lb (9,336 mt) in 2006. In addition, up to 3 percent of the TAL may be allocated as RSA quota. The discussion below describes how the TAL is allocated to the commercial and recreational sectors, and then adjusted downward proportionally to account for any approved bluefish RSA.

### Council Recommendation: Commercial Quota and Recreational Harvest Limit

The FMP stipulates that in any year in which 17 percent of the TAL is less than 10.50 million lb (4,763 mt), the commercial quota may be increased up to 10.50 million lb (4,763 mt) as long as the recreational fishery is not projected to land more than 83 percent of the TAL in the upcoming fishing year, and the combined projected recreational landings and commercial quota would not exceed the TAL. Given recreational harvest trends in recent years--an average of 12.70 million lb (5,761 mt)

over the last 5 years--the Council and the Board recommended that the recreational harvest limit for 2006 approximate actual 2004 recreational landings (15.15 million lb (6,872 mt)). Therefore, the Council recommended that 5,367,197 lb (2,435 mt) be transferred from the initial recreational allocation of 20,583,033 lb (9,336 mt) resulting in a 2006 recreational harvest limit of 15,215,836 lb (6,902 mt) and a commercial quota of 9,582,999 lb (4,347 mt).

### RSA

A request for proposals was published to solicit research proposals to utilize RSA in 2006 based on research priorities identified by the Council (April 18, 2005; 70 FR 20104). One research project that would utilize bluefish RSA has been approved by the Northeast Regional Administrator (RA) and forwarded to the NOAA Grants Office. The FMP allows the Council and NMFS to allocate up to 3 percent of the TAL as RSA, to support fishery research. Therefore, a 363,677-lb (164,961-kg) RSA quota is specified for 2006; 1.5 percent of the total allowed under the FMP. The commercial and recreational allocation are reduced in an amount proportional to the overall TAL to account for the RSA (See *Final 2006 Commercial Quota and Recreational Harvest Limit* section below for adjusted commercial quota and recreational harvest limit).

### Recreational Possession Limit

A recreational possession limit of up to 15 fish per person will be maintained in 2006 to achieve the recreational harvest limit.

### Final 2006 Commercial Quota and Recreational Harvest Limit

Although the Council recommendation, described above, was based on the best information available at the time, new landing projections for the 2006 fishing year that were not available at the time of the Council's recommendation or at the time of publication of the proposed rule, reveal that the initial transfer amount would allow recreational harvest limits to be exceeded. The revised transfer amount accounts for projected recreational landings of 16,472,573 lb (7,472 mt), based on updated recreational landings data provided by the Marine Recreational Fisheries Statistics Survey (MRFSS) Program. This final rule will reduce the amount of the transfer from the recreational to the commercial sector by 1.50 million lb (680,389 kg), from 5,367,197 lb (2,435 mt) to 3,865,294 lb (1,753 mt), commensurate

with increased recreational landings trends. Therefore, the initial recreational allocation of 20,583,034 lb (9,336 mt) will be reduced by 3,865,294 lb (1,753 mt) resulting in a post-transfer commercial quota of 8,081,096 lb (3,666 mt) and a recreational harvest limit of 16,717,740 lb (7,583 mt). After adjusting

for the RSA quota, the resulting 2006 specifications will include a commercial quota of 7,962,586 lb (3,612 mt) and a recreational harvest limit of 16,472,573 lb (7,472 mt). The RSA quota will remain unchanged at 363,677 lb (164,961 kg).

#### *Final State Commercial Allocations*

The 2006 commercial quota is allocated by state as shown in Table 1 below, according to the percentages specified in the FMP. Table 1 shows the allocations both before and after the deductions made to reflect the RSA quota allocation.

**Table 1. Bluefish Commercial State-by-State Allocations for 2006<sup>1</sup>**

States	Quota	2006 Commercial Quota			
		2006 Commercial Quota		With Research Set-Aside Deducted	
	Percent Share	(lb)	(kg)	(lb)	(kg)
ME	0.6685	54,022	24,504	53,083	24,078
NH	0.4145	33,496	15,194	32,914	14,929
MA	6.7167	542,783	246,205	533,344	241,921
RI	6.8081	550,169	249,555	540,601	245,213
CT	1.2663	102,331	46,417	100,551	45,609
NY	10.3851	839,230	380,672	824,635	374,048
NJ	14.8162	1,197,311	543,097	1,176,489	533,647
DE	1.8782	151,779	68,847	149,140	67,649
MD	3.0018	242,578	110,033	238,360	108,118
VA	11.8795	959,994	435,450	943,299	427,873
NC	32.0608	2,590,864	1,175,208	2,545,807	1,154,759
SC	0.0352	2,845	1,290	2,795	1,268
GA	0.0095	768	348	754	342
FL	10.0597	812,934	368,744	798,797	362,328
Total	100.0001	8,081,096	3,665,561	7,962,586	3,611,769

#### **Comments and Responses**

The following comment was received concerning the December 19, 2005 (70 FR 75111), proposed rule.

*Comment:* The commenter expressed general support for environmental reforms and conservation of bluefish for future generations. The commenter indicated that the recreational harvest possession limit should be reduced to one fish per person. The commenter also indicated that commercial fishery landings information was unreliable and biased and that the catch statistics result in correspondingly high quota allocations to the commercial sector. The commenter suggested that the TAC be reduced by 50 percent initially, and by 10 percent in each subsequent year.

*Response:* This final rule is designed to provide for the fair and efficient use of the Federal bluefish quotas. While NMFS acknowledges the importance of the issues raised by the commenter, those of a general nature are outside the scope of this rulemaking. The commenter gave no specific rationale for

why the quotas ought to be reduced in the manner suggested or for why the recreational possession limit should be reduced to one fish per person. There is no known scientific basis for either of the commenter's suggestions. The reasons presented by the Council and NMFS for recommending the final specifications are discussed in the preambles to both the proposed and final rules, and sufficient analysis is contained within the supporting documents. This final rule implements measures to reduce bluefish fishing mortality to levels less than those prescribed under the FMP in year 8 of the stock rebuilding plan. The Council is required to recommend annual fishing measures, such as recreational possession limits, to ensure that the recommended quotas will not be exceeded. The Commission and the Council agreed that a possession limit of 15 fish per angler is appropriate to limit bluefish mortality to sustainable levels and further rebuild the bluefish stock. Furthermore, this final rule implements

an alternative that will transfer less quota than originally recommended from the recreational sector to the commercial sector to ensure that 2006 recreational harvest limits not be exceeded.

#### **Changes from the Proposed Rule**

While there is no regulatory text, the preamble to this final rule describes a revision in the amount of the transfer (less quota than was originally recommended) from the recreational to the commercial sector based on recent recreational landings data. The resulting statewide allocations are contained in Table 1.

#### **Classification**

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Included in this final rule is the Final Regulatory Flexibility Analysis (FRFA) prepared pursuant to section 604(a) of the Regulatory Flexibility Act (RFA). The FRFA describes the economic

impact that this final rule will have on small entities and incorporates a portion of the IRFA, which is summarized in the proposed rule, the comments and responses on the proposed rule (70 FR 75111, December 19, 2005), and the analyses completed in support of this action. A copy of the EA and IRFA are available from the Council (see **ADDRESSES**). This final rule implements a new alternative and does not repeat the analysis of the alternatives included in the IRFA. The proposed rule contains a summary of the economic analysis that the Council completed on the original alternatives. This final rule contains a comparative analysis of the impacts of the new alternative relative to the 2005 commercial quota and recreational harvest, 2005 preliminary landings, and the Council's preferred alternative.

## FRFA

### *Statement of Objective and Need*

A description of the reasons why this action is being considered, and the objectives of, and legal basis for, the final rule is found in the preamble to this final rule.

### *Summary of Significant Issues Raised in Public Comments*

One comment was submitted on the proposed rule, but was not specific to the IRFA or the economic effects of the rule. NMFS has responded to the comment in the Comments and Responses section of the preamble to this final rule. No changes were made to the final rule as a result of the comment that was received.

### *Description and Estimate of Number of Small Entities to Which the Rule Will Apply*

An active participant in the commercial bluefish fishery sector is defined as any vessel that reported having landed one or more pounds of bluefish to a Federal dealer during calendar year 2004. Vessels that fish for bluefish commercially must sell their catch to Federal dealers. All vessels affected by this rulemaking have gross receipts less than \$3.5 million and are considered to be small entities under the RFA (up to \$3.5 million or \$5.0 million in gross annual receipts for commercial and recreational activity, respectively). Since there are no large entities participating in this fishery, there are no disproportionate effects resulting from small versus large entities. In the absence of quantitative

data, qualitative analyses were conducted.

Of the active, federally permitted vessels in 2004, 748 landed bluefish from Maine to North Carolina. Northeast dealer data do not fully cover vessel activity from South Carolina to Florida. South Atlantic Trip Ticket Report data were used to identify 819 vessels that landed bluefish in North Carolina and 591 vessels that may have landed bluefish on Florida's east coast. Some of these vessels were identified in the Northeast dealer data, therefore double counting is possible. The bluefish landings in South Carolina and Georgia represented less than 1/10 of 1 percent of total landings, a negligible proportion of the total bluefish landings along the Atlantic coast in 2004. Therefore, it is assumed that no vessels landed bluefish from South Carolina and Georgia.

In addition, in recent years, approximately 2,063 party/charter vessels may have been active and/or caught bluefish in either state or Federal waters. All of these vessels are considered small entities under the RFA, having gross receipts of less than \$5 million annually. Since the recreational possession limits will remain at 15 fish per person, there should be no impact on demand for party/charter vessel fishing, and, therefore, no impact on revenues earned by party/charter vessels.

### *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule.

### *Description of the Steps Taken To Minimize Economic Impact on Small Entities*

Specification of commercial quota, recreational harvest levels, and possession limits is constrained by the conservation objectives of the FMP, under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The decreased commercial quota may affect individual states, by increasing the probability that they will need to invoke the transfer provision to avoid a quota overage. Individual state quotas will be approximately 15 percent less than they would have been under the Council's preferred alternative (see Table 2). However, states that utilize the allowable transfer provisions and receive the quota they require to meet

market demands before an overage occurs may mitigate any economic impacts associated with potential foregone revenues. We considered a TAL that would have allowed a higher allocation of quota to the commercial sector than the preferred alternative, but this alternative would have been inconsistent with the goals and objectives of the FMP and the Magnuson-Stevens Act, and the mandates of *Natural Resources Defense Council v. Daley* (341 U.S. App. D.C. 119, 209 F.3d 747, 754 (D.C. Cir. 2000)) i.e., the TAL must have at least a fifty percent probability of achieving its targets. The new alternative, which will transfer less quota from the recreational to the commercial sector than was offered in the proposed rule (see Table 2), is being implemented consistent with recent recreational landing trends and should ensure that 2006 recreational harvest limits are not exceeded. In addition, the 2006 coastwide commercial quota is higher than commercial landings in recent years; therefore, no negative economic impacts are expected relative to the status quo and the Council's preferred alternative. In conclusion, there are no other alternatives that would further mitigate economic impacts to vessels engaged in the fishery more than the chosen alternative.

The difference between the new alternative and alternatives previously analyzed, relates only to the manner in which the overall TAL is allocated between the commercial and recreational components of the bluefish fishery (Table 2). The commercial quota specified by the new alternative represents a 23 percent decrease from the 2005 commercial quota, while the 2006 recreational harvest limit under this alternative would be approximately 18 percent lower than the recreational harvest limit specified in 2005. The commercial quota that is being allocated through the new alternative (after adjusting for the RSA) remains higher than recent landings; e.g., the 2006 coast wide quota is approximately 36 percent higher than preliminary 2005 commercial landings and 5 percent higher than actual 2004 landings. The recreational harvest limit would be 30 percent higher, or 3.8 million pounds (1,724 mt) above the average recreational landings for the last 5 years (12.698 million lb (5,760 mt)), and 9 percent higher than actual 2004 recreational landings (15.146 million lb (5,653 mt)).

**Table 2. Comparison in LB (MT) of the Alternatives of Quota Combinations Reviewed**

	<b>2006 Initial TAL</b>	<b>2006 Post- Transfer Commercial Quota</b>	<b>2006 Post- Transfer Recreational Harvest Limit</b>	<b>2006 Research Set-Aside</b>	<b>2006 Adjusted Commercial Quota</b>	<b>2006 Adjusted Recreational Harvest Limit</b>
<b>2006 Final Quota Alternative</b>						
Final Rule Preferred Alternative	24,798,836 (11,249)	8,081,096 (3,666)	16,717,740 (7,583)	363,677 (165)	7,962,586 (3,612)	16,472,573 (7,472)
<b>Council's Preferred Quota Alternative</b>						
Proposed Rule Preferred Alternative	24,798,836 (11,249)	9,582,999 (4,347)	15,215,836 (6,902)	363,677 (165)	9,442,465 (4,283)	14,992,694 (6,801)
<b>2005 Final Quota Alternative</b>						
Preferred Alternative	30,853,578 (13,995)	10,500,000 (4,763)	20,353,578 (9,232)	297,750 (135)	10,398,671 (4,717)	20,157,157 (9,143)

The impacts on revenues of the proposed RSA were analyzed. The social and economic impacts of this proposed RSA are expected to be minimal. Assuming the full RSA is allocated for bluefish, the set-aside amount could be worth as much as \$101,830 dockside, based on an average 2004 ex-vessel price of \$0.28 per pound for bluefish. Assuming an equal reduction among all 748 active dealer reported vessels, this could mean a reduction of about \$136 per individual vessel. Changes in the recreational harvest limit would be insignificant (less than a 2 percent decrease), if 1.5 percent of the TAL is used for research.

It is unlikely that there would be negative economic impacts as a result of the RSA quota. The RSAs are expected to yield important long-term benefits associated with improved data upon which to base management decisions. A full analysis is available from the Council (see **ADDRESSES**).

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

Dated: February 16, 2006.

**William T. Hogarth,**

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

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**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 040804229-4300-02; I.D. 021706B]

#### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Modification of the Yellowtail Flounder Landing Limit for the U.S./Canada Management Area

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

**ACTION:** Temporary rule; landing limit.

**SUMMARY:** NMFS announces that the Administrator, Northeast (NE) Region, NMFS (Regional Administrator), is modifying the Georges Bank (GB) yellowtail flounder trip limit from 1,500 lb (680.4 kg) per day up to a maximum of 15,000 lb (6,804.1 kg) per trip, to 15,000 lb (6,804.1 kg) per trip with no daily limit, for NE multispecies days-at-sea (DAS) vessels fishing in the U.S./Canada Management Area. This action is authorized by the regulations

implementing Amendment 13 to the NE Multispecies Fishery Management Plan and is intended to prevent under-harvesting the Total Allowable Catch (TAC) for GB yellowtail flounder while ensuring that the TAC will not be exceeded during the 2005 fishing year. This action is being taken to provide additional opportunities for vessels to fully harvest the GB yellowtail flounder TAC under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Effective February 21, 2006, through April 30, 2006.

**FOR FURTHER INFORMATION CONTACT:** Mark Grant, Fishery Management Specialist, (978) 281-9145, fax (978) 281-9135.

#### SUPPLEMENTARY INFORMATION:

Regulations governing the GB yellowtail flounder landing limit within the U.S./Canada Management Area are found at 50 CFR 648.85(a)(3)(iv)(C) and (D). The regulations authorize vessels issued a valid limited access NE multispecies permit and fishing under a NE multispecies DAS to fish in the U.S./Canada Management Area, as defined at § 648.85(a)(1), under specific conditions. The TAC for GB yellowtail flounder for the 2005 fishing year (May 1, 2005—April 30, 2006) is 4,260 mt. On