

HARVEST TABLE

5-year population averages	"High" growth rate	"Intermediate" growth rate	"Low" growth rate	Expected Mortality Limit
Less than 350	0	0	0	-
350-399	8 strikes in 5 years	5 strikes in 5 years	5 strikes in 5 years	21
400-449	9 strikes in 5 years	8 strikes in 5 years	5 strikes in 5 years	24
450-499	10 strikes in 5 years	8 strikes in 5 years	5 strikes in 5 years	27
500-524	14 strikes in 5 years	9 strikes in 5 years	5 strikes in 5 years	30
525-549	16 strikes in 5 years	10 strikes in 5 years	5 strikes in 5 years	32
550-574	20 strikes in 5 years	15 strikes in 5 years	5 strikes in 5 years	33
575-599	22 strikes in 5 years	16 strikes in 5 years	5 strikes in 5 years	35
600-624	24 strikes in 5 years	17 strikes in 5 years	6 strikes in 5 years	36
625-649	26 strikes in 5 years	18 strikes in 5 years	6 strikes in 5 years	38
650-699	28 strikes in 5 years	19 strikes in 5 years	7 strikes in 5 years	39
700-779	32 strikes in 5 years	20 strikes in 5 years	7 strikes in 5 years	42
780 +	Consult with co-managers to expand harvest levels while allowing for the population to grow			

(C) At the beginning of each 5-year period, an Expected Mortality Limit is determined from the Harvest Table using the 5-year average abundance. During the course of each calendar year, the number of beach casts carcasses and carcasses found floating either reported to NMFS or observed by NMFS personnel will be the number of mortalities for that year. If at the end of each calendar year this number exceeds the Expected Mortality Limit, then an unusual mortality event has occurred. The Estimated Excess Mortalities will be calculated as twice the number of reported dead whales above the Expected Mortality Limit. The harvest will then be adjusted as follows:

(1) The harvest level for the remaining years of the current 5-year period will be recalculated by reducing the 5-year average abundance from the previous 5-year period by the Estimated Excess Mortalities. The revised abundance estimate would then be used in the harvest table for the remaining years and the harvest adjusted accordingly.

(2) For the subsequent 5-year period, for the purpose of calculating the 5-year average, the Estimated Excess Mortalities would be subtracted from the abundance estimates of the year of the excess mortality event so that the average would reflect the loss to the

population. This average would then be used in the table to set the harvest level.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071212833-8179-02]

RIN 0648-XK90

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Quota Transfer

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

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS announces that the State of Florida is transferring commercial bluefish quota to the State of New York from its 2008 quota. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective October 9, 2008 through December 31, 2008.

FOR FURTHER INFORMATION CONTACT:

Emily Bryant, Fishery Management Specialist, (978) 281-9244, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Regulations governing the Atlantic bluefish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from Florida through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.160.

Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine bluefish commercial quota under § 648.160(f). The Regional Administrator is required to consider the criteria set forth in § 648.160(f)(1) in the evaluation of requests for quota transfers or combinations.

Florida has agreed to transfer 100,000 lb (45,359 kg) of its 2008 commercial quota to New York. The Regional Administrator has determined that the criteria set forth in § 648.160(f)(1) have been met. The revised bluefish quotas for calendar year 2008 are: New York,

947,057 lb (429,578 kg); and Florida, 673,748 lb (305,607 kg).

Classification

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

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

Dated: October 8, 2008.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. E8-24415 Filed 10-9-08; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 080225278-81191-02]

RIN 0648-AS96

Fisheries Off West Coast States; West Coast Salmon Fisheries; Amendment 14; Essential Fish Habitat Descriptions for Pacific Salmon

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Essential Fish Habitat (EFH) identifications and descriptions for Pacific salmon included in Amendment 14 to the Pacific Salmon Fishery Management Plan (Salmon FMP). This final rule codifies the EFH identifications and descriptions for freshwater and marine habitats of Pacific salmon managed under the Salmon FMP, including Chinook, coho, and pink salmon. This action is necessary to comply with an order issued by the U.S. District Court for the District of Idaho which directed NMFS to codify the EFH identifications and descriptions contained in Amendment 14 to the Salmon FMP.

DATES: Effective November 14, 2008.

ADDRESSES: Copies of the Record of Decision, the Final Supplemental Environmental Impact Statement, and Amendment 14 to the Salmon FMP are available at www.nwr.noaa.gov or from D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070, phone: 206-526-6150.

FOR FURTHER INFORMATION CONTACT: Steve Copps (Northwest Region, NMFS), 206-526-6140; fax: 206-526-6736.

SUPPLEMENTARY INFORMATION:

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes the Secretary of Commerce (Secretary) to regulate domestic fisheries within the 200-mile U.S. Exclusive Economic Zone (EEZ) (16 U.S.C. 1811, 1853). Conservation and management of fish stocks is accomplished through Fishery Management Plans (FMPs). Eight regional fishery management councils develop FMPs and amendments to those plans for fisheries within their jurisdiction (16 U.S.C. 1853). To be effective, FMPs and FMP amendments developed by the councils must be approved by the Secretary and then implemented through regulation (16 U.S.C. 1854). More information on the FMP process can be found at 16 U.S.C. 1851-1854.

Essential Fish Habitat

The Magnuson-Stevens Act, originally enacted in 1976, has been amended several times. In 1996, the Sustainable Fisheries Act (SFA) amended the Magnuson-Stevens Act adding provisions intended to end overfishing and rebuild overfished fisheries, reduce bycatch, and assess and minimize the impacts of management measures on fishing communities. Congress articulated in its findings that one of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States (16 U.S.C. 1801(a)(9)). In making such findings, Congress declared one of the purposes of the Magnuson-Stevens Act to be the promotion of "the protection of [EFH] in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat" (16 U.S.C. 1801(b)(7)). To ensure habitat considerations receive increased attention for the conservation and management of fishery resources, the amended Magnuson-Stevens Act required each existing, and any new, FMP to: describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 1855(b)(1)(A) of this title; minimize to the extent practicable adverse effects on such habitat caused by fishing; and, identify other actions to encourage the conservation and enhancement of such habitat (16 U.S.C. 1853(a)(7)). "EFH" is defined in the Magnuson-Stevens Act as "those waters

and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity" (16 U.S.C. 1802(10)).

The EFH regulations (50 CFR 600.815) establish additional guidance to the councils on how to identify and describe EFH. The regulations indicate that councils should obtain information to describe and identify EFH from the best available sources, including peer reviewed literature, unpublished scientific reports, data files of government resource agencies, fisheries landing reports, and other sources of information.

The regulations identify four classification levels to organize available information relevant to EFH identifications and descriptions. Level 1 information is limited to species distributional data; level 2 information includes habitat-related densities; level 3 includes growth, reproduction or survival rates within habitats; and level 4 consists of production rates by habitat. Councils are encouraged to identify and describe EFH based on the highest level of detail (i.e., level 4). The EFH regulations (50 CFR 600.815, subpart J) provide a complete description of each of these levels as well as guidance on how the councils should analyze the available information.

To establish EFH, the regulations advise the councils to interpret the available information in a "risk-averse fashion to ensure adequate areas are identified as EFH for managed species" (50 CFR 600.815(a)(1)(iv)(A)). For Pacific salmon, the Pacific Fishery Management Council (Pacific Council) obtained information at all four levels for certain freshwater areas, and the first three levels of information for the estuaries; only the first level of information was available for marine areas.

Amendment 14 to the Pacific Salmon Fishery Management Plan

The Secretary approved the Salmon FMP under the Magnuson-Stevens Act, (16 U.S.C. 1801 *et seq.*), in 1978. The Pacific Council has amended the Salmon FMP 14 times since 1978. The Pacific Council identified and described EFH for Pacific Salmon in Amendment 14 to the Salmon FMP and submitted it on June 12, 2000 for Secretarial review. Following a public comment period, the Secretary approved Amendment 14 on September 27, 2000. NMFS codified some, but not all, components of Amendment 14. The Pacific Salmon EFH descriptions and identifications, however, were not codified.

In September of 2003, the U.S. District Court for the District of Idaho (Court) (Case No. CV02-C-EJL) held that the