

Dated: July 7, 2006.

Matt Hogan,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 051128313-6029-02; I.D. 071906C]

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 Commonwealth of Virginia is transferring 125,000 lb (56,699 kg) of commercial bluefish quota to the State of New York from its 2006 quota. By this action, NMFS adjusts the quotas and announces the revised commercial quota for New York and Virginia.

DATES: Effective July 21, 2006 through December 31, 2006, unless NMFS publishes a superseding document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Management Specialist, (978) 281-9341, 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.

Virginia has agreed to transfer 125,000 lb (56,699 kg) of its 2006 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 2006 are: New York, 900,526 lb (408,472 kg); and Virginia, 720,915 lb (327,002 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: July 20, 2006.

James P. Burgess,

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

[FR Doc. 06-6489 Filed 7-21-06; 1:04 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 051104293-5344-02; I.D. 071306A]

Fisheries of the Northeastern United States; Scup Fishery; Adjustment to the 2006 Winter II Quota

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS adjusts the 2006 Winter II commercial scup quota and possession limit. This action complies with Framework Adjustment 3 (Framework 3) to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, which established a process to allow the rollover of unused commercial scup quota from the Winter I period to the Winter II period.

DATES: This rule is effective November 1, 2006, through December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, Fishery Policy Analyst, (978) 281-9279.

SUPPLEMENTARY INFORMATION: NMFS published a final rule in the **Federal Register** on November 3, 2003 (68 FR 62250), implementing a process, for years in which the full Winter I commercial scup quota is not harvested, to allow unused quota from the Winter I period to be added to the quota for the Winter II period, and to allow adjustment of the commercial possession limits for the Winter II period commensurate with the amount of quota rolled over from the Winter I period. Table 4 of the final 2006 quota

specifications for summer flounder, scup, and black sea bass (70 FR 77060, December 29, 2005) presented detailed information regarding Winter II possession limits, based on the amount of scup to be rolled over from Winter I to Winter II.

For 2006, the Winter II quota is 1,901,983 lb (862,725 kg), and the best available landings information indicates that 1,827,598 lb (828,985 kg) remain of the Winter I quota of 5,382,589 lb (2,441,501 kg). Consistent with the intent of Framework 3, the full amount of unused 2006 Winter I quota is transferred to Winter II, resulting in a revised 2006 Winter II quota of 3,729,581 lb (1,691,709 kg). In addition to the quota transfer, the 2006 Winter II possession limit is increased, consistent with the rollover specifications established in the 2006 final rule (70 FR 77060), to 6,500 lb (2,948 kg) per trip to provide an appropriate opportunity for fishing vessels to obtain the increased Winter II quota.

Classification

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

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

Dated: July 20, 2006.

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 648

[Docket No. 060503118-6169-02; I.D. 042606E]

RIN 0648-AT26

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Framework Adjustment 6

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures contained in Framework Adjustment 6 (Framework 6) to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) that will allow regional conservation equivalency in the summer

flounder recreational fishery. The intent is to provide flexibility and efficiency to the management of the summer flounder recreational fishery, specifically by expanding the suite of management tools available when conservation equivalency is implemented. In addition, this final rule includes three administrative modifications to the existing regulations for clarification purposes.

DATES: This rule is effective August 25, 2006.

ADDRESSES: Copies of Framework 6, which includes the Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901-6790. The EA/RIR/IRFA is also accessible via the Internet at <http://www.nero.noaa.gov>. The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, public comments and responses contained in this final rule, and the summary of impacts and alternatives contained in this final rule.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, Fishery Policy Analyst, (978) 281-9279.

SUPPLEMENTARY INFORMATION:

Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils. The management unit for summer flounder (*Paralichthys dentatus*), specified in the FMP, is defined as U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canada border.

The proposed rule for Framework 6 was published on May 15, 2006 (71 FR 27981). A complete discussion of the development of Framework 6, including explanation of the conservation equivalency recommendation process, appeared in the preamble of the proposed rule and is not repeated here.

Conservation equivalency allows each state to establish its own recreational management measures (possession limits, minimum fish size, and fishing seasons) to achieve its state harvest limit, as long as the combined effect of all of the states' management measures achieves the same level of conservation as would Federal coastwide measures

developed to achieve the overall recreational harvest limit.

Framework 6 allows for the voluntary formation of multi-state regions by two or more adjacent states for the purpose of setting regional, conservation-equivalent recreational summer flounder fishing measures. Using guidelines approved by both the Council and the Commission, multi-state conservation equivalency regions could develop fishing measures (i.e., minimum fish size, possession limits, and fishing seasons) intended to maximize landings in the region, without resulting in overages of the regional targets (in number of fish). All states forming a region would be required to implement identical recreational fishery regulations.

If conservation equivalency is recommended, and following confirmation that the proposed state measures would achieve conservation equivalency, NMFS may waive the permit condition found at § 648.4(b), which requires federally permitted vessels to comply with the more restrictive management measures when state and Federal measures differ. Federally permitted charter/party permit holders and recreational vessels fishing for summer flounder in the Exclusive Economic Zone (EEZ) then would be subject to the recreational fishing measures implemented by the state in which they land summer flounder, rather than the coastwide measures. In addition, the Council and the Board must recommend precautionary default measures. The precautionary default measures would be assigned to any state that either does not submit a summer flounder management proposal to the Commission's Summer Flounder Technical Committee, or that submits measures that are determined not to achieve the required reduction. The precautionary default measures are defined as the set of measures that would achieve the greatest reduction in landings required for any state.

Under Framework 6, multi-state conservation equivalency measures for each region would be developed in the same manner (including the same procedures and timelines) as for state-specific conservation equivalency measures, as specified in Framework 2 to the FMP (Framework 2), which established summer flounder conservation equivalency.

The recreational harvest limit for a multi-state region would be the sum of the harvest limits for all of the states volunteering to form that region. The Summer Flounder Technical Committee would develop region-specific tables as

necessary for use by a multi-state region in determining recreational management measures expected to constrain recreational landings to the regional harvest limit. Assuming that a state or region makes its plans for the current calendar year at the beginning of the calendar year, the prior year's recreational landings would be pooled among the inclusive states and then compared to the current year's region-specific recreational harvest limit to determine if any reduction in landings would be required of that region. Each multi-state region would then craft its regulations under the same guidelines used to develop state-specific conservation equivalency measures and under the same timeline identified in Framework 2.

There are two possible scenarios for how states could proceed based on whether a region decides to maintain its voluntary regional agreement or decides to dissolve the voluntary multi-state region and resume state-specific conservation equivalency during the year following the year for which the region was formed. First, in the event that a multi-state region maintains its voluntary conservation equivalency agreement, the region would again compare its regional recreational landings for the prior year to the current year's region-specific recreational harvest limit to determine if any necessary reductions in landings would be required of that region. The region would then adjust its regulations such that the region-specific harvest limit would be achieved. Second, in the event the region dissolves its agreement and opts for state-specific conservation equivalency, state-specific harvest limits would apply and individual states would compare their state-specific landings for the prior year to the state-specific harvest limits in the current year. Each state would then adjust its regulations such that the state-specific harvest limits would be achieved. As established for individual states in Framework 2, a multi-state region that does not exceed its regional harvest limit in a given year may be allowed to set less restrictive management measures for the following year, if the following year's regional harvest limit is greater than the current year's regional landings.

This final rule expands the scope of the regulations at § 648.100(e) to allow states and/or multi-state regions to implement conservation equivalent recreational fishing measures. The conservation equivalency regulations at § 648.107 continue to apply, i.e., references to "state" are not modified, since individual states are ultimately

responsible for implementation of the conservation equivalent regulations (including those approved for a multi-state region).

Need for Clarification/Correction

This final rule also makes three administrative changes to the summer flounder regulations, as set out in the proposed rule (71 FR 27981, May 15, 2006), to: (1) Clarify (at § 648.104(b)) that, although the minimum mesh size requirements specified for otter trawls would not apply for a vessel issued a summer flounder small-mesh exemption letter, other restrictions in part 648 may limit the area in which the exemption letter may be used; (2) correct the reference to net stowage requirements at § 648.104(b)(1) to read “§ 648.104(e)” rather than “§ 648.100(e)” as it was inadvertently published in a final rule that consolidated regulations governing multiple marine fisheries of the Northeast region into one new CFR part (61 FR 34966, July 3, 1996); and (3) modify the wording of the regulatory text at § 648.107(b) for clarification purposes.

Comments and Responses

One comment letter was received regarding the proposed rule (71 FR 27981, May 15, 2006), but it did not include comment on management of the recreational summer flounder fishery.

Comment: The commenter expressed concern about the impact of commercial fishing on fish stocks in general, and supports reduction of all quotas by 50 percent in 2006, and by an additional 10 percent each subsequent year.

Response: While NMFS acknowledges that consideration of total allowable landings and quota allocation are important, these general issues are outside the scope of this rulemaking.

Classification

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

Included in this final rule is the FRFA prepared pursuant to 5 U.S.C. 604(a). The FRFA incorporates the economic impacts described in the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, and NMFS's responses to those comments, and a summary of the analyses completed to support the action. A copy of the EA/RIR/IRFA is available from the Council (see ADDRESSES).

Final Regulatory Flexibility Analysis

Statement of Objective and Need

A description of the reasons why this action is being taken, and the objectives

of and legal basis for this final rule are explained in the preambles to the proposed rule and this final rule and are not repeated here.

Summary of Significant Issues Raised in Public Comments

The one comment letter received on the proposed rule did not address the potential economic impact of the rule. No changes to the proposed rule were required to be made as a result of the public comment. For a summary of the comments received, and the responses thereto, refer to the “Comments and Responses” section of this preamble.

Description and Estimate of Number of Small Entities to Which This Rule Will Apply

In 2004, the most recent year for which complete permit data are available, 803 vessels possessed a Federal charter/party permit for summer flounder, scup, and/or black sea bass. Of these, 739 vessels held a permit to participate in the recreational fishery for summer flounder only, or in combination with scup and black sea bass. However, only 284 of these vessels landed summer flounder in 2004.

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

This action is not expected to result in negative impacts to a significant number of small entities participating in the recreational summer flounder fishery, relative to the status quo. The coastwide recreational harvest limit for summer flounder would not be altered. Multi-state conservation equivalency regions will develop fishing measures that maximize the harvest of the region-specific limit, without resulting in overages. This is similar to what is currently done on a state-specific basis when conservation equivalency is implemented, but on a larger scale. It is expected that the conservation equivalent recreational management measures would allow each state or multi-state region to develop specific summer flounder recreational measures that allow the fishery to operate during critical fishing periods, while still achieving conservation goals and mitigating potential adverse economic effects in specific states.

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.” However, this rule does not make any changes that necessitate vessel compliance. This action allows for expansion of the existing conservation equivalency management option to a regional scope. Because the conservation equivalency regulations at § 648.107 would continue to apply, i.e., references to “state” would not be modified, and because the additional modifications to the summer flounder regulations are minor and administrative, there is no need for a small entity compliance guide. NMFS has updated the text for future summer flounder small-mesh exemption letters to reflect that other restrictions in part 648 may limit the area in which the exemption letter may be used. In addition, copies of this final rule are available from NMFS (see ADDRESSES) and at the following website: <http://www.nero.noaa.gov>.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 20, 2006.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons stated 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: Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 648.100, paragraphs (e)(2) introductory text, (e)(2)(i), and (e)(2)(ii) are revised to read as follows:

§ 648.100 Catch quotas and other restrictions.

* * * * *

(e) * * *

(2) *Conservation equivalent measures.* Individual states or regions formed voluntarily by adjacent states (i.e., multi-state conservation equivalency regions) may implement different combinations of minimum fish sizes, possession limits, and closed seasons that achieve equivalent conservation as

the coastwide measures established under paragraph (e)(1) of this section. Each state or multi-state conservation equivalency region may implement measures by mode or area only if the proportional standard error of Marine Recreational Fisheries Statistics Survey (MRFSS) landings estimates by mode or area for that state are less than 30 percent.

(i) After review of the recommendations, the Regional Administrator will publish a proposed rule in the **Federal Register** on or about March 1 to implement the overall percent adjustment in recreational landings required for the fishing year, the Council and Commission’s recommendation concerning conservation equivalency, the precautionary default measures, and coastwide measures.

(ii) During the public comment period on the proposed rule, the Commission will review conservation equivalency proposals and determine whether or not they achieve the necessary adjustment to recreational landings. The Commission will provide the Regional Administrator with the individual state and/or multi-state region conservation measures for the approved state and/or multi-state region proposals and, in the case of disapproved state and/or multi-state region proposals, the precautionary default measures.

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■ 3. In § 648.104, paragraphs (b) introductory text and (b)(1) introductory text are revised to read as follows:

§ 648.104 Gear restrictions.

* * * * *

(b) *Exemptions.* Unless otherwise restricted by this part, the minimum mesh-size requirements specified in paragraph (a)(1) of this section do not apply to:

(1) Vessels issued a summer flounder moratorium permit, a summer flounder small-mesh exemption area letter of authorization (LOA), required under paragraph (b)(1)(i) of this section, and fishing from November 1 through April 30 in the exemption area, which is east of the line that follows 72°30.0’ W. long. until it intersects the outer boundary of the EEZ (copies of a map depicting the area are available upon request from the Regional Administrator). Vessels fishing under the LOA shall not fish west of the line. Vessels issued a permit under § 648.4(a)(3)(iii) may transit the area west or south of the line, if the vessel’s fishing gear is stowed in a manner prescribed under § 648.104(e), so that it is not “available for immediate use” outside the exempted area. The Regional Administrator may terminate this exemption if he/she determines, after a review of sea sampling data, that vessels fishing under the exemption are discarding more than 10 percent, by weight, of their entire catch of summer flounder per trip. If the Regional

Administrator makes such a determination, he/she shall publish notification in the **Federal Register** terminating the exemption for the remainder of the exemption season.

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■ 4. In § 648.107, paragraph (b) is revised to read as follows:

§ 648.107 Conservation equivalent measures for the summer flounder fishery.

* * * * *

(b) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels subject to the recreational fishing measures of this part and registered in states whose fishery management measures are not determined by the Regional Administrator to be the conservation equivalent of the season, minimum size and possession limit prescribed in §§ 648.102, 648.103(b) and 648.105(a), respectively, due to the lack of, or the reversal of, a conservation equivalent recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission, shall be subject to the following precautionary default measures: Season - January 1 through December 31; minimum size - 18 inches (45.7 cm); and possession limit - one fish.