

Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622. Those regulations set the commercial quota for red snapper in the Gulf of Mexico at 4.65 million lb (2.11 million kg) for the current fishing year, January 1 through December 31, 1999. Those regulations split the red snapper commercial fishing season into two time periods, the first commencing at noon on February 1, with two-thirds of the annual quota (3.06 million lb (1.39 million kg)) available, and the second commencing at noon on September 1, with the remainder of the annual quota available. During the fall commercial season, the red snapper commercial fishery opens at noon on the first of each month and closes at noon on the 10th of each month, until the applicable commercial quotas are reached.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by filing a notification to that effect with the **Federal Register**. Based on current statistics, NMFS projects that the available commercial quota of 4.65 million lb (2.11 million kg) for red snapper will be reached on November 5, 1999. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for red snapper will remain closed from noon on November 5, 1999, until noon, local time, on February 1, 2000. The operator of a vessel with a valid reef fish permit having red snapper aboard must have landed and bartered, traded, or sold such red snapper prior to noon, local time, November 5, 1999.

During the closure, the bag and possession limits specified in 50 CFR 622.39(b) apply to all harvest or possession of red snapper in or from the EEZ in the Gulf of Mexico, and the sale or purchase of red snapper taken from the EEZ is prohibited. In addition, the bag and possession limits for red snapper apply on board a vessel for which a commercial permit for Gulf reef fish has been issued, without regard to where such red snapper were harvested. However, the bag and possession limits for red snapper apply only when the recreational quota for red snapper has not been reached and the bag and possession limit has not been reduced to zero. The prohibition on sale or purchase does not apply to sale or purchase of red snapper that were harvested, landed ashore, and sold prior

to noon, local time, November 5, 1999, and were held in cold storage by a dealer or processor.

#### Classification

This action is taken under 50 CFR 622.43(a) and is exempt from review under E.O. 12866.

Dated: October 21, 1999.

**Bruce C. Morehead,**

*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. 981014259-8312-02; I.D. 101999A]

#### Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for New York

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

**ACTION:** Commercial quota harvest.

**SUMMARY:** NMFS announces that the summer flounder commercial quota available to the State of New York has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in New York for the remainder of calendar year 1999, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require the publication of this notification to advise the State of New York that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing summer flounder in New York.

**DATES:** Effective from 0001 hours, November 1, 1999, through 2400 hours, December 31, 1999.

**FOR FURTHER INFORMATION CONTACT:** Paul H. Jones, Fishery Policy Analyst, (978) 281-9273.

**SUPPLEMENTARY INFORMATION:** Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from North Carolina through Maine. The process to

set the annual commercial quota and the percent allocated to each state is described in § 648.100.

The initial total commercial quota for summer flounder for the 1999 calendar year was set equal to 11,110,300 lb (5,039,547 kg) (64 FR 9088, February 24, 1999). The percent allocated to vessels landing summer flounder in New York is 7.64699 percent, or 790,948 lb (358,768 kg).

Section 648.100(e)(4) stipulates that any overages of commercial quota landed in any state be deducted from that state's annual quota for the following year. In the calendar year 1998, a total of 823,093 lb (373,349 kg) were landed in New York, creating a 59,674 lb (27,068 kg) overage that was deducted from the amount allocated for landings in the State during 1999 (64 FR 46596, August 26, 1999). The resulting 1999 quota for New York is 790,006 lb (358,341 kg).

Section 648.101(b) requires the Administrator, Northeast Region, NMFS (Regional Administrator), to monitor state commercial quotas and to determine when a state's commercial quota is harvested. The Regional Administrator is further required to publish notification in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and that no commercial quota is available for landing summer flounder in that state. The Regional Administrator has determined, based upon dealer reports and other available information, that the State of New York will have attained its quota for 1999 as of November 1, 1999.

The regulations at § 648.4(b) provide that Federal permit holders agree as a condition of the permit not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, November 1, 1999, further landings of summer flounder in New York by vessels holding commercial Federal fisheries permits are prohibited for the remainder of the 1999 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective the same date, federally permitted dealers are also advised that they may not purchase summer flounder from federally permitted vessels that land in New York for the remainder of the calendar year, or until additional quota becomes available through a transfer.

**Classification**

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

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

Dated: October 21, 1999.

**Bruce C. Morehead,**

*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. 990301058-9225-02; I.D. 011499B]

RIN 0648-AL56

**Fisheries of the Northeastern United States; Amendment 12 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP); Amendment 8 to the Atlantic Mackerel, Squid, and Butterfish FMP; and Amendment 12 to the Atlantic Surf Clam and Ocean Quahog FMP**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement the approved portions of Amendment 12 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP); Amendment 8 to the Atlantic Mackerel, Squid, and Butterfish FMP; and Amendment 12 to the Atlantic Surf Clam and Ocean Quahog FMP. This rule would implement framework provisions for amending management measures for these fisheries, restrict the size of domestic harvesting vessels permitted in the Atlantic mackerel fishery without restricting the size of processing vessels, and implement an operator permit requirement for the surf clam and ocean quahog fisheries. The purpose of these amendments is to meet the requirements of the Sustainable Fisheries Act (SFA) of October 1996 (SFA).

**DATES:** Effective November 26, 1999.

**ADDRESSES:** Copies of the SFA amendments, the environmental assessments (EA), the regulatory impact reviews, and other supporting documents are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council,

Room 2115 Federal Building, 300 S. New Street, Dover, DE 19904-6790.

Comments regarding burden-hour estimates for collection-of-information requirements contained in this rule should be sent to the same address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Regina L. Spallone, Fishery Policy Analyst, 978-281-9221.

**SUPPLEMENTARY INFORMATION:**

Amendment 12 to the Summer Flounder, Scup, and Black Sea Bass FMP; Amendment 8 to the Atlantic Mackerel, Squid, and Butterfish FMP; and Amendment 12 to the Atlantic Surf Clam and Ocean Quahog FMP (collectively referred to as the SFA Amendments) were prepared by the Mid-Atlantic Fishery Management Council (Council) to address the new requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the SFA. Background concerning the development of the SFA Amendments was provided in the notice of proposed rulemaking (64 FR 16891, April 7, 1999), and is not repeated here. This final rule implements approved management measures contained in the SFA Amendments intended to eliminate overfishing, rebuild many of the associated stocks, comply with the provisions of the SFA, and achieve other goals. The SFA Amendments were partially approved by NMFS on behalf of the Secretary of Commerce (Secretary) on April 28, 1999.

Upon evaluation of the SFA Amendments as required by Section 304(a)(3) of the Magnuson-Stevens Act, NMFS, on behalf of the Secretary, disapproved several provisions of the amendments. The disapproved measures include the scup rebuilding schedule, the scup bycatch provision, the surf clam overfishing definition (OFD), and the deficient essential fish habitat (EFH) portions of all three of the SFA amendments. The deficient portions include: Section 2.2.3.7—Fishing Impacts on EFH and Section 2.2.4—Options for Managing Adverse Effects from Fishing in Amendment 12 to the Summer Flounder, Scup, and Black Sea Bass FMP; Section 2.2.3.7—Fishing Impacts on EFH and Section 2.2.4—Options for Managing Adverse Effects from Fishing in Amendment 8 to the Atlantic Mackerel, Squid, and Butterfish FMP; and Section 2.2.3.8—Fishing Impacts on EFH, and Section

2.2.4—Options for Managing Adverse Effects from Fishing in Amendment 12 to the Atlantic Surf Clam and Ocean Quahog FMP. NMFS has notified the Council of the disapprovals and made recommendations for addressing the deficiencies noted.

**Measures Approved in SFA Amendments**

This final rule implements revisions to the Summer Flounder, Scup, and Black Sea Bass FMP, the Atlantic Mackerel, Squid, and Butterfish FMP, and the Atlantic Surf Clam and Ocean Quahog FMP by adding a framework adjustment process in addition to the annual specification setting process for each of the fisheries.

This final rule also revises regulations implementing the Atlantic Mackerel, Squid, and Butterfish FMP by revising the maximum fishing mortality rate (F) for *Illex* squid to  $F_{MSY}$  to reflect better the goal of achieving maximum sustainable yield (MSY) on a continuing basis, and restricting the size of domestic harvesting, but not processing, vessels permitted in the Atlantic mackerel fishery. A vessel permitted in the Atlantic mackerel fishery may not exceed either of the following specifications: (1) 165 ft (50.3 m) in length overall (LOA) and 750 gross registered tons (GRT), or (2) a shaft horsepower (shp) of 3,000 shp.

**Comments and Responses**

Forty-six written comments on the SFA Amendments were received during the comment period established by the notice of availability of the SFA Amendments, which ended March 29, 1999 (64 FR 4065, January 27, 1999). These comments were considered by NMFS in its decision to approve partially the SFA Amendments on April 28, 1999. In addition, NMFS received 10 comments during the comment period specified for the proposed rule, which ended on May 24, 1999. A number of the comments received on the proposed rule did not specifically address the proposed regulations. In fact, many of these letters referenced existing provisions in the management structures for each of the fisheries that were not proposed for revision under the SFA Amendments. Since those existing provisions had already been found to comply with the Magnuson-Stevens Act under reviews for both previous actions and the SFA Amendments, and were not revised in the SFA Amendments, NMFS determined that it would be inappropriate to address those comments in this final rule. Comments received during the specified comment