

predicted that sharp cuts in future ACLs would be necessary to reduce the risk of overfishing, and recommended cuts be made in the 2018 catch. These cuts are intended to provide some conservation benefits for herring in 2018 and mitigate some of the impacts of estimated 2019 reductions on the herring industry.

The Regional Administrator of NMFS for the Greater Atlantic Region monitors the herring fishery catch in each of the management areas based on vessel and dealer reports, state data, and other available information. The regulations at § 648.201 require that when the Regional Administrator projects herring catch will reach 92 percent of the sub-ACL allocated in the Area 1B seasonal management area designated in the Atlantic Herring Fishery Management Plan (FMP), NMFS must prohibit, through notification in the **Federal Register**, herring vessel permit holders from fishing for, possessing, transferring, receiving, landing, or selling more than 2,000 lb (907.2 kg) of herring per trip or calendar day in or from that area for the remainder of the fishing year.

The Regional Administrator has determined, based on dealer reports and other available information, that the herring fleet will catch 92 percent of the total herring sub-ACL allocated to Area 1B by October 24, 2018. Therefore, effective 0001 hr local time on October 24, 2018, through December 31, 2018, federally permitted vessels may not fish for, catch, possess, transfer, land, or sell more than 2,000 lb (907.2 kg) of herring per trip and calendar day, in or from Area 1B. Vessels that have entered port before 0001 hr on October 24, 2018, may offload and sell more than 2,000 lb (907.2 kg) of herring from Area 1B from that trip. A vessel may transit through Area 1B with more than 2,000 lb (907.2 kg) of herring on board, provided the vessel did not catch more than 2,000 lb (907.2 kg) of herring in Area 1B and its fishing gear is not available for immediate use as defined by 50 CFR 648.2.

Effective 0001 hr, October 24, 2018, federally permitted dealers may not receive herring from federally permitted herring vessels that harvest more than 2,000 lb (907.2 kg) of herring from Area 1B through 2400 hr local time, December 31, 2018, unless it is from a trip landed by a vessel that entered port before 0001 hr on October 24, 2018.

#### Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866. NMFS finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the

opportunity for public comment because it would be contrary to the public interest and impracticable. Further, in accordance with 5 U.S.C. 553(d)(3), NMFS finds good cause to waive the 30-day delayed effectiveness. NMFS is required by Federal regulation to immediately put in place a 2,000-lb (907.2-kg) herring trip limit for Area 1B through December 31, 2018. The 2018 herring fishing year opened on January 1, 2018, and Management Area 1B opened on May 1, 2018. Data indicating the herring fleet will have landed at least 92 percent of the 2018 sub-ACL allocated to Area 1B have only recently become available. Once these data become available projecting 92 percent of the sub-ACL will be caught, regulations at § 648.201(a) require NMFS to close the directed fishery and impose a trip limit to ensure that herring vessels do not exceed the 2018 sub-ACL allocated to Area 1B. High-volume catch and landings in this fishery increase total catch relative to the sub-ACL quickly. If implementation of this closure is delayed to solicit prior public comment, the sub-ACL for Area 1B for this fishing year may be exceeded, thereby undermining the conservation objectives of the FMP. If sub-ACLs are exceeded, the excess must be deducted from a future sub-ACL and would reduce future fishing opportunities. In addition, the public had prior notice and full opportunity to comment on this process when these provisions were put in place. The public expects these actions to occur in a timely way consistent with the fishery management plan's objectives.

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

Dated: October 22, 2018.

**Karen H. Abrams,**

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

[FR Doc. 2018-23350 Filed 10-22-18; 4:15 pm]

**BILLING CODE 3510-22-P**

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 180220191-8945-02]

RIN 0648-BH80

#### Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Commercial Accountability Measures Framework Adjustment

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS is implementing a commercial framework adjustment to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan that modifies the accountability measures required for overages not caused by directed landings (*i.e.*, discards) in the summer flounder, scup, and black sea bass fisheries. This adjustment incorporates the status of the stocks into the accountability measures. This action is intended to provide additional flexibility in determining when accountability measures are appropriate, similar to the method already used in the recreational fisheries for these species.

**DATES:** Effective November 26, 2018.

**ADDRESSES:** Copies of this framework adjustment, including the Environmental Assessment (EA) and other supporting documents for the action, are available upon request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the internet at <http://www.mafmc.org/actions/sfsbsb-commercial-am-framework>.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Ferrio, Fishery Management Specialist, (978) 281-9180.

#### SUPPLEMENTARY INFORMATION:

#### General Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively under the provisions of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) developed by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission. This action implements a modification to the Federal accountability measures (AM) that are enacted when the commercial annual catch limit (ACL) is exceeded due to discards for any of these three species.

There are two types of commercial fishery AMs outlined in the summer flounder, scup, and black sea bass regulations. The first is a pound-for-pound overage repayment that is applied when the commercial quota is exceeded as a result of landings. This landings-based AM is not adjusted by this action. The second is a non-landings based AM that is applied to the commercial annual catch target (ACT) if the ACL has been exceeded, and the overage is not caused by landings, but

rather by higher discards than those estimated prior to the fishing year. This action adjusts this non-landings-based AM for the summer flounder, scup, and black sea bass fisheries to account for the variability in commercial discard estimates. This approach also provides additional flexibility to these AMs based on stock status and the biological consequences, if any, of estimated discard overages.

The proposed rule for this action published in the **Federal Register** on August 9, 2018 (83 FR 39398), and comments were accepted through September 10, 2018. We received nine comments from the public, but no changes to the final rule are necessary as a result of those comments. Additional background information regarding the development of this action can be found in the proposed rule, and is not repeated here.

### Final Action

This action incorporates stock status into non-landings AMs determinations, as described in the proposed rule. When discards cause the commercial ACL to be exceeded, the following system will now be used to determine AMs:

(1) If the current biomass is above the biomass target, no overage payback is required.

(2) If the current biomass is above the biomass threshold (*i.e.*, the stock is not overfished), but below the biomass target, and the stock is not under a rebuilding plan, then one of the following non-landings paybacks are applied:

a. If discards cause the commercial ACL, but not the acceptable biological catch (ABC), to be exceeded, no overage repayment is required; or

b. If discards cause both the commercial ACL and ABC to be exceeded, a scaled, single-year adjustment to the commercial ACT will be made. The adjustment would be scaled based on stock biomass, so that the adjustment is larger the closer the biomass is to the threshold.

(3) If the stock is overfished, under a rebuilding plan, or the biological reference points (*i.e.*, stock status) are unknown, then a pound-for-pound payback is required for any non-landings overage.

The scaled payback required in scenario 2b above would be calculated as the product of the difference between the total catch and the ACL (*i.e.*, the overage amount) and a payback coefficient. The payback coefficient is the difference between the most recent estimate of biomass target and the current biomass, divided by one half of the biomass target. This scaling is

intended to minimize impacts of a payback for healthy stocks, while still accounting for the biological consequences of the overage. For more description of the scaled payback calculation, see the proposed rule for this action.

### Comments and Responses

The public comment period for the proposed rule ended on September 10, 2018, and a total of nine comments were received from the public. Three comments from different industry groups all expressed support for the action as described in the proposed rule. Two comments outlined different perceptions of the current stock status, quotas, and commercial state-by-state allocations in the summer flounder fishery. These issues are not responsive to the specific measures in this action, but are currently under consideration by the Council in its ongoing development of summer flounder specifications and the commercial summer flounder amendment. The other four comments received were not relevant to this action or these fisheries in general, and did not warrant a response in the context of the current rulemaking. No changes to the proposed rule will be made as a result of these comments.

### Changes From the Proposed Rule

There are no substantive changes from the proposed rule.

### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this final rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here.

No comments were received regarding this certification, and the initial certification remains unchanged. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 19, 2018.

**Samuel D. Rauch III,**

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

For the reasons set out 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:** 16 U.S.C. 1801 *et seq.*

■ 2. In § 648.103, paragraph (b)(3) is revised to read as follows:

#### § 648.103 Summer flounder accountability measures.

\* \* \* \* \*

(b) \* \* \*

(3) *Non-landing accountability measure.* In the event that the commercial ACL is exceeded and that the overage has not been accommodated through the landings-based AM, then the following procedure will be followed:

(i) *Overfishing, rebuilding, or unknown stock status.* If the most recent estimate of biomass is below the  $B_{MSY}$  threshold (*i.e.*,  $B/B_{MSY}$  is less than 0.5), the stock is under a rebuilding plan, or the biological reference points ( $B$  or  $B_{MSY}$ ) are unknown, and the commercial ACL has been exceeded, then the exact amount, in pounds, by which the most recent year's commercial catch estimate exceeded the most recent year's commercial ACL will be deducted, in the following fishing year from the commercial ACT, as a single-year adjustment.

(ii) *If biomass is above the threshold, but below the target, and the stock is not under rebuilding.* If the most recent estimate of biomass is above the biomass threshold ( $B/B_{MSY}$  is greater than 0.5), but below the biomass target ( $B/B_{MSY}$  is less than 1.0), and the stock is not under a rebuilding plan, then the following AMs will apply:

(A) If the Commercial ACL has been exceeded, but not the overall ABC, then no single-year AM payback is required.

(B) If the Commercial ACL and ABC have been exceeded, then a scaled

single-year adjustment to the commercial ACT will be made, in the following fishing year. The ACT will be reduced by the exact amount, in pounds, of the product of the overage, defined as the difference between the commercial catch and the commercial ACT, and the payback coefficient. The payback coefficient is the difference between the most recent estimate of biomass and  $B_{MSY}$  (i.e.,  $B_{MSY} - B$ ) divided by one-half of  $B_{MSY}$ .

(iii) *If biomass is above  $B_{MSY}$ .* If the most recent estimate of biomass is above  $B_{MSY}$  (i.e.,  $B/B_{MSY}$  is greater than 1.0), then no single-year AM payback is required.

\* \* \* \* \*

■ 3. In § 648.123, paragraph (b) is revised to read as follows:

**§ 648.123 Scup accountability measures.**

\* \* \* \* \*

(b) *Non-landing accountability measure.* In the event that the commercial ACL has been exceeded and the overage has not been accommodated through the landings-based AM, then the following procedure will be followed:

(1) *Overfishing, rebuilding, or unknown stock status.* If the most recent estimate of biomass is below the  $B_{MSY}$  threshold (i.e.,  $B/B_{MSY}$  is less than 0.5), the stock is under a rebuilding plan, or the biological reference points (B or  $B_{MSY}$ ) are unknown, and the commercial ACL has been exceeded, then the exact amount, in pounds, by which the most recent year's commercial catch estimate exceeded the most recent year's commercial ACL will be deducted, in the following fishing year from the commercial ACT, as a single-year adjustment.

(2) *If biomass is above the threshold, but below the target, and the stock is not under rebuilding.* If the most recent estimate of biomass is above the biomass threshold ( $B/B_{MSY}$  is greater than 0.5), but below the biomass target ( $B/B_{MSY}$  is less than 1.0), and the stock is not under a rebuilding plan, then the following AMs will apply:

(i) If the Commercial ACL has been exceeded, but not the overall ABC, then no single-year AM payback is required.

(ii) If the Commercial ACL and ABC have been exceeded, then a scaled single-year adjustment to the commercial ACT will be made, in the following fishing year. The ACT will be reduced by the exact amount, in pounds, of the product of the overage, defined as the difference between the commercial catch and the commercial ACT, and the payback coefficient. The payback coefficient is the difference

between the most recent estimate of biomass and  $B_{MSY}$  (i.e.,  $B_{MSY} - B$ ) divided by one-half of  $B_{MSY}$ .

(3) *If biomass is above  $B_{MSY}$ .* If the most recent estimate of biomass is above  $B_{MSY}$  (i.e.,  $B/B_{MSY}$  is greater than 1.0), then no single-year AM payback is required.

\* \* \* \* \*

■ 4. In § 648.143, paragraph (b) is revised to read as follows:

**§ 648.143 Black sea bass accountability measures**

\* \* \* \* \*

(b) *Non-landing accountability measure.* In the event that the commercial ACL has been exceeded and the overage has not been accommodated through the landings-based AM, then the following procedure will be followed:

(1) *Overfishing, rebuilding, or unknown stock status.* If the most recent estimate of biomass is below the  $B_{MSY}$  threshold (i.e.,  $B/B_{MSY}$  is less than 0.5), the stock is under a rebuilding plan, or the biological reference points (B or  $B_{MSY}$ ) are unknown, and the commercial ACL has been exceeded, then the exact amount, in pounds, by which the most recent year's commercial catch estimate exceeded the most recent year's commercial ACL will be deducted, in the following fishing year from the commercial ACT, as a single-year adjustment.

(2) *If biomass is above the threshold, but below the target, and the stock is not under rebuilding.* If the most recent estimate of biomass is above the biomass threshold ( $B/B_{MSY}$  is greater than 0.5), but below the biomass target ( $B/B_{MSY}$  is less than 1.0), and the stock is not under a rebuilding plan, then the following AMs will apply:

(i) If the Commercial ACL has been exceeded, but not the overall ABC, then no single-year AM payback is required.

(ii) If the Commercial ACL and ABC have been exceeded, then a scaled single-year adjustment to the commercial ACT will be made, in the following fishing year. The ACT will be reduced by the exact amount, in pounds, of the product of the overage, defined as the difference between the commercial catch and the commercial ACT, and the payback coefficient. The payback coefficient is the difference between the most recent estimate of biomass and  $B_{MSY}$  (i.e.,  $B_{MSY} - B$ ) divided by one-half of  $B_{MSY}$ .

(3) *If biomass is above  $B_{MSY}$ .* If the most recent estimate of biomass is above  $B_{MSY}$  (i.e.,  $B/B_{MSY}$  is greater than 1.0),

then no single-year AM payback is required.

\* \* \* \* \*

[FR Doc. 2018-23289 Filed 10-24-18; 8:45 am]

BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 180531512-8512-01]

RIN 0648-BH97

#### Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Tribal Usual and Accustomed Fishing Areas

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

**ACTION:** Final rule.

**SUMMARY:** This final rule implements the decision in *United States v. Washington*, 2:09-sp-00001-RSM, (W.D. Wash. March 5, 2018) (Order Regarding Boundaries of Quinault and Quileute U&As), which revised the western boundaries of the usual and accustomed (U&A) fishing areas of the Quileute Indian Tribe and Quinault Indian Nation.

**DATES:** This final rule is effective October 25, 2018.

**ADDRESSES:** Information relevant to this final rule is available from Aja Szumylo, West Coast Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070.

#### Electronic Access

This rule is accessible via the internet at the Office of the Federal Register website at <https://www.federalregister.gov>. Background information and documents are available at the NMFS West Coast Region website at <http://www.westcoast.fisheries.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Kathryn Blair, phone: 503-231-6858, fax: 503-231-6893, or email: [kathryn.blair@noaa.gov](mailto:kathryn.blair@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Background

Regulations at 50 CFR 660.4 describe the usual and accustomed fishing areas of Indian tribes with treaty fishing rights to species managed under the Magnuson-Stevens Fisheries Conservation and Management Act (Magnuson-Stevens Act). Those regulations explain that boundaries of a tribe's fishing area may be revised as