

restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this notice in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means as soon as the AA approves it, thereby providing approximately 3 additional days of notice while the Office of the Federal Register processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, DOC, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

**Authority:** 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated: December 14, 2004.

**Rebecca Lent,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 031119283-4001-02; I.D. 121404B]

#### 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:** Closure of commercial fishery.

**SUMMARY:** NMFS announces that the summer flounder commercial quota available to 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 2004, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notification to advise 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 0001 hours, December 19, 2004, through 2400 hours, December 31, 2004.

**FOR FURTHER INFORMATION CONTACT:** Jason Blackburn, Fishery Management Specialist, (978) 281-9326.

**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 2004 calendar year was set equal to 16,920,000 lb (7,674,862 kg) (69 FR 2074, January 14, 2004). The percent allocated to vessels landing summer flounder in New York is 7.64699 percent, resulting in a commercial quota of 1,293,871 lb (586,896 kg). The 2004 allocation was reduced to 1,285,853 lb (583,259 kg) due to research set-aside.

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 has been harvested. NMFS then publishes a notification in the **Federal Register** to advise the state and to notify Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and 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 New York has harvested its quota for 2004.

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, December 19, 2004, further landings of summer flounder in New York by vessels holding summer flounder commercial Federal fisheries permits are prohibited for the remainder of the 2004 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 0001 hours, December 19, 2004, federally permitted dealers are also notified 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: December 14, 2004.

**Alan D. Risenhoover,**

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