

Section	Remove	Add
397.213(b)(1) .....	Administrator, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, Washington, DC 20590-0001. Attention: Office of the Chief Counsel (MC-CC), Hazardous Materials Preemption Docket.	Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590-0001. Attention: Office of the Chief Counsel, Enforcement and Litigation Division (MC-CCE).

Issued on: September 24, 2007.

**John H. Hill,**  
Administrator.

[FR Doc. E7-19196 Filed 9-28-07; 8:45 am]

**BILLING CODE 4910-EX-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 061109296-7009-02]

**RIN 0648-XC67**

**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 State of Florida is transferring commercial bluefish quota to the State of New Jersey from its 2007 quota. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

**DATES:** Effective September 26, 2007 through December 31, 2007.

**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 309,125 lb (140,160 kg) of its 2007 commercial quota to New Jersey. 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 2007 are: New Jersey, 1,579,605 lb (716,496 kg); and Florida, 553,488 lb (251,057 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: September 25, 2007.

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

[FR Doc. 07-4832 Filed 9-26-07; 2:07 pm]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 070706268-7513-02]

**RIN 0648-AV21**

**Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Framework Adjustment 7**

**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 7 (Framework 7) to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). Framework 7 will broaden the FMP stock status determination criteria for summer flounder, scup, and black sea bass, while maintaining objective and measurable criteria for identifying when the FMP stocks are overfished or approaching an overfished condition. The framework action will also establish acceptable categories of

peer review for providing new or revised stock status determination criteria for the Council to use in its annual management measures for each species. This action is necessary to ensure that changes or modification to the stock status determination criteria constituting the best available peer reviewed scientific information are accessible for the management of these three species in as timely a manner as is possible. The intended effect of this action is to improve the timeliness and efficiency of incorporating the best available scientific information, consistent with National Standards 1 and 2 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), into the management processes for the three species covered by the FMP.

**DATES:** This rule is effective October 31, 2007.

**ADDRESSES:** Copies of Framework Adjustment 7 are available from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901-6790. The framework document is also accessible via the Internet at <http://www.nero.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Michael Ruccio, Fishery Policy Analyst, (978) 281-9104.

**SUPPLEMENTARY INFORMATION:**

**Background**

The proposed rule for Framework 7 was published in the **Federal Register** on August 6, 2007 (72 FR 43587). A complete discussion of the development and rationale for the framework appeared in the preamble of the proposed rule and is not repeated here.

The current stock status determination criteria for summer flounder (*Paralichthys dentatus*), scup (*Stenotomus chrysops*), and black sea bass (*Centropristis striata*) are found in Amendment 12 to the FMP. Prior to the development of Framework 7, the Mid-Atlantic Fishery Management Council (Council) would be required to enact a framework adjustment or an amendment to the FMP to modify or replace these stock status determination criteria on a case-by-case basis.

Stock assessment information is updated annually as part of the management process that is used to derive annual catch limits (e.g., Total Allowable Landings (TAL)). The updated assessment information is utilized in the regulatory processes for these three species outlined at §§ 648.100, 648.120, and 648.140. These annual "turn of the crank" updates typically make no changes to the existing stock status determination criteria and are performed by groups with technical expertise, but are not typically subject to formal peer reviews nor are the stock status determination criteria often recommended to be changed.

Full assessments for these three stocks undergo periodic formal scientific peer review as part of the Northeast Fisheries Science Center's (NEFSC) Stock Assessment Workshop (SAW) and Stock Assessment Review Committee (SARC) process. These and other periodic formal assessments and subsequent peer reviews conducted for these stocks may result in recommendations to revise or use different stock status determination criteria as different or new approaches are applied to previously existing data, or to new, previously unexamined data. These types of assessments and peer reviews are distinguishable from the annual updates as they are often more comprehensive in nature and subject to rigorous scientific peer review that is consistent with the Office of Management and Budget (OMB) Information Quality Bulletin for Peer Review.

In the absence of the provisions contained in Framework 7 to more generally describe stock status determination criteria, when a full stock assessment and subsequent peer review recommended modification of existing or new stock status determination criteria for these species occurs it is likely that the new criteria would not be available for the Council's use for one or more annual management review cycles (i.e., a 1- to 2-year delay) while a framework adjustment or an amendment was developed and implemented.

The increased flexibility in defining the stock status determination criteria contained in Framework 7, consistent with National Standards 1 and 2, will allow the Council to utilize the best available peer reviewed science within the annual management measures development process, thereby improving the timeliness of incorporating the most current, best available stock status determination criteria.

Additionally, Framework 7 provides guidance on acceptable peer review

practices, particularly for conducting reviews on stock assessments that generate modified or new stock status determination criteria that may not originate from the NEFSC SAW/SARC process, which is the primary stock assessment process for the Northeast Region. This guidance will help ensure that any such external review is sufficiently rigorous so that the resulting stock status determination advice may be considered by the Council as the best available science. In the unlikely circumstance that two or more sets of different but peer review accepted stock status determination criteria are available for the Council's use, the Council would still be required to adequately justify its final selection of one set over the other or others, consistent with national standard guidelines.

Framework 7 also provides guidance on how the Council may convene its Scientific and Statistical Committee (SSC) in the unlikely event that peer reviewed stock status determination criteria recommendations are unclear (i.e., lack of consensus from the reviewers), and how such information should be used in crafting management decisions should the peer review not specify such guidance. The SSC would, in such instances, only review information that lacks clarity; in instances where a formal peer review results in a consensus recommendation for use, that information is clearly the best available information and, as such, requires no additional review or input from the SSC prior to the Council using the information. Similarly, the SSC would not be needed to review peer review recommendations that reject modified or new stock status determination criteria because such information is not the best available (i.e., if new information is rejected in peer review, the existing stock status determination criteria remains the best available information).

#### Comments and Response

Two comments were received regarding the proposed rule. One comment did not address any aspect of the framework, instead raising questions about where commercial fisheries for summer flounder should be allowed to take place. As this comment is not directly related to the action of Framework 7, it is not responded to here.

*Comment:* The commenter asserted that implementation of Framework 7 would allow continued overfishing of summer flounder, scup, and black sea bass stocks and that the framework allows an unspecified, upward

adjustment to quotas that would further exacerbate overfishing.

*Response:* NMFS acknowledges that all three species are currently overfished. Framework 7 makes no specific adjustment to either the current biological reference points used to define the status of these three stocks, nor does the framework make any adjustment to the management measures (e.g., TALs, recreational possession and size limits, etc.) used to eliminate overfishing in this or in future years. As outlined in the preamble to the final rule, Framework 7 is an administrative change focused on the mechanism through which the best available peer-reviewed information may be incorporated into the annual management process that sets quotas and other management measures that are aimed at ending overfishing and rebuilding stocks to their maximum sustainable yield levels. Annual management measures that are part of separate rulemaking are used to eliminate overfishing.

Furthermore, Framework 7 contains no explicit adjustments to quotas for any of the three species. If, in the future, revised or new stock status determination criteria are developed and vetted for use through the peer review process outlined in Framework 7, there may be adjustments, either upward or downward, to quotas as the results of the stock status and peer review dictate.

#### Classification

The Administrator, Northeast Region, NMFS, determined that Framework Adjustment 7 is necessary for the conservation and management of the summer flounder, scup, and black sea bass fisheries and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

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. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

Dated: September 26, 2007.

**John Oliver,**

*Deputy Assistant Administrator for  
Operations, National Marine Fisheries  
Service.*

[FR Doc. E7-19348 Filed 9-28-07; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 070430095-7095-01]

RIN 0648-XB09

#### Fisheries Off West Coast States and in the Western Pacific; Modifications of the West Coast Commercial Salmon Fishery; Inseason Action #3 and #4

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

**ACTION:** Modification of fishing seasons, landing and possession limits; request for comments.

**SUMMARY:** NOAA Fisheries announces that the commercial fishery in the area from the U.S.-Canada Border to Cape Falcon, Oregon and in the area from the U.S.-Canada Border to Leadbetter Point, Washington was modified by two inseason actions. Inseason action #3 in the area from Leadbetter Point to the U.S.-Canada Border decreased the landing and possession limit from 60 to 50 Chinook per vessel per open period. Inseason action #3 also closed commercial fishing in the area from the U.S.-Canada border to Cape Falcon Oregon on June 30, 2007. Inseason action #4 modified the landing and possession limit in the area from Leadbetter Point, Washington to the U.S.-Canada border for Chinook from 30 to 20 fish per vessel per open period, Saturday through Tuesday. All other restrictions and regulations remained in effect as announced for the 2007 Ocean Salmon Fisheries and previous inseason actions.

**DATES:** Inseason action #3 in the area from Leadbetter Point to the U.S.-Canada border was effective from 0001 hours local time (l.t.) Saturday June 23 through 2359 hours l.t. Tuesday June 26, 2007. Also, inseason action #3 in the area from the U.S.-Canada border to Cape Falcon, Oregon was effective 0001 hours l.t. Saturday, June 30, 2007. Inseason action #4 was effective 0001 hours l.t. Saturday, July 28, 2007.

Comments will be accepted through October 16, 2007.

**ADDRESSES:** Comments on these actions must be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115-0070; or faxed to 206-526-6376. Comments can also be submitted via e-mail at the 2007salmonIA3\_4.nwr@noaa.gov address, or on the internet at the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments, and include 0648-XB09 in the subject line of the message. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

**FOR FURTHER INFORMATION CONTACT:** Sarah McAvinchey 206-526-4323.

**SUPPLEMENTARY INFORMATION:** In the 2007 annual management measures for ocean salmon fisheries (72 FR 24539, May 3, 2007), NMFS announced the commercial fisheries in the area from the U.S.-Canada border to Cape Falcon, Oregon, and in the area from the U.S.-Canada border to Leadbetter Point, Washington. This area was open May 1 through earlier of June 30 or 10,850 Chinook quota. Beginning May 12, 2007 this area was open Saturday through Tuesday with a landing and possession limit of 60 Chinook per vessel for each four-day open period north of Leadbetter Point, for all salmon except coho.

On June 21, 2007, for Inseason action #3, and July 28, 2007 for Inseason action #4 the Regional Administrator (RA) consulted with representatives of the Pacific Fishery Management Council, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife. Information related to catch to date, Chinook and coho catch rates, and effort data were reported. Inseason action #3 was taken because catch data indicated a reduction in the landing and possession limit would provide the opportunity for the full quota to be caught within the announced season. Eliminating the last day during the May-June open period also provided the opportunity for the next open period to begin within the quota. Inseason action #4 was taken because catch data indicated a reduction in the landing and possession limit would the opportunity for the full quota to be caught within the announced season.

As a result, on June 21, 2007, the states recommended, and the RA concurred, that Inseason action #3 would be effective in the area from Leadbetter Point to the U.S.-Canada

border from Saturday June 23 through Tuesday June 26, 2007. This action made the landing and possession limit 50 Chinook per vessel per open period. This action also closed the area from the U.S.-Canada border to Cape Falcon Oregon to commercial salmon fishing on June 30. Also, on Friday July 27, 2007 the states recommended, and the RA concurred, that Inseason action #4 in the area from Leadbetter Point to the U.S.-Canada border would be effective Saturday July 28, 2007. This action reduced the landing and possession limit for Chinook to 20 fish per vessel per open period. Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409(b)(1)(i).

The RA determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason actions recommended by the states. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory actions was given, prior to the date the action was effective, by telephone hotline number 206-526-6667 and 800-662-9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz. These actions do not apply to other fisheries that may be operating in other areas.

#### Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (72 FR 24539, May 3, 2007), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modifications had to be implemented in order to allow fishers access to the available fish at the time the fish were