

Statement must be submitted for each segment whose costs included in the total price of any CAS-covered contract or subcontract exceed \$650,000, unless

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(f) \* \* \*

(2) \* \* \*

(i) Any business unit of an educational institution that is selected to receive a CAS-covered contract or subcontract in excess of \$650,000 and is part of a college or university location listed in Exhibit A of Office of Management and Budget (OMB) Circular A-21 shall submit a Disclosure Statement before award. \* \* \*

(3) \* \* \*

(i) For business units that are selected to receive a CAS-covered contract or subcontract in excess of \$650,000 and are part of the first 20 college or university locations (i.e., numbers 1 through 20) listed in Exhibit A of OMB Circular A-21, Disclosure Statements shall be submitted within six months after the date of contract award.

(ii) For business units that are selected to receive a CAS-covered contract or subcontract in excess of \$650,000 and are part of a college or university location that is listed as one of the institutions numbered 21 through 50, in Exhibit A of OMB Circular A-21, Disclosure Statements shall be submitted during the six month period ending twelve months after the date of contract award.

(iii) For business units that are selected to receive a CAS-covered contract or subcontract in excess of \$650,000 and are part of a college or university location that is listed as one of the institutions numbered 51 through 99, in Exhibit A of OMB Circular A-21, Disclosure Statements shall be submitted during the six month period ending eighteen months after the date of contract award.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

RIN 0648-AT60

[Docket No. 061020273-7001-03; I.D. 010307A]

#### Fisheries of the Northeastern United States; Summer Flounder Fishery; Emergency Rule Extension

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

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; emergency action extended.

**SUMMARY:** NMFS is extending the revised summer flounder total allowable landings (TAL) implemented on January 19, 2007, until December 31, 2007, the end of the 2007 fishing year. This emergency rule extension specifies allowed harvest limits for both the commercial and recreational summer flounder fisheries. The TAL contained within this emergency rule extension continues the previous harvest limits for summer flounder that became effective on January 19, 2007, which superceded the harvest limits initially implemented on January 1, 2007. This action continues the prohibition on federally permitted commercial vessels landing summer flounder in Delaware in 2007 due to continued quota repayment of previous year's overages.

This emergency rule extension is necessary to maintain the increased 2007 summer flounder harvest levels previously found to be consistent with the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Reauthorized Magnuson-Stevens Act) through the end of the 2007 fishing year. Extending this emergency action will ensure continued compliance with regulations implementing the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). In addition, this action will continue to ensure that fishing mortality rates (F) or exploitation rates, as specified in the FMP, are not exceeded.

**DATES:** Effective from July 18, 2007 through December 31, 2007.

**ADDRESSES:** Copies of the Supplemental Environmental Assessment are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298. This document is also accessible via the Internet at <http://www.nero.noaa.gov>.

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

**SUPPLEMENTARY INFORMATION:** Summer flounder is currently under a rebuilding plan. NMFS published a final rule containing the 2007 summer flounder TAL on December 14, 2006 (71 FR 75134). The 12.983-million-lb (5,889-mt) TAL in that rule became effective on January 1, 2007, which was a 45-percent decrease from the TAL specified for 2006.

Following the publication of the 2007 summer flounder TAL in the **Federal Register**, the Reauthorized Magnuson-Stevens Act was signed into law on January 12, 2007. Contained within the Reauthorized Magnuson-Stevens Act is a specific provision under section 120(a) that authorizes the Secretary of Commerce (Secretary) to extend the rebuilding time frame for summer flounder to no later than January 1, 2013, provided that several specific conditions are met. The Secretary must determine that:

1. Overfishing is not occurring in the summer flounder fishery and that a mechanism is in place to ensure overfishing does not occur in the fishery and stock biomass levels are increasing;
2. The biomass rebuilding target previously applicable to the summer flounder stock will be met or exceeded within the new time for rebuilding;
3. The extension period is based on the status and biology of the stock and the rate of rebuilding;
4. Monitoring will ensure rebuilding continues;

5. The extension meets the requirements of National Standard 1 found at section 301(a)(1) of the Magnuson-Stevens Act; and

6. The best scientific information available shows that the extension will allow continued rebuilding.

On behalf of the Secretary, NMFS previously determined that these six criteria had been met and that there is a reasonable basis to extend the summer flounder rebuilding time frame to no later than January 1, 2013. Based on these determinations, NMFS implemented an emergency rule, effective January 19, 2007 (72 FR 2458), to increase the TAL to 17.112 million lb (7,762 mt). The agency's decision to enact emergency rulemaking was consistent with the policy guidelines for the use of emergency rules published in the **Federal Register** on August 21, 1997 (62 FR 44421).

A detailed discussion of the Secretarial determinations made relative to section 120(a) of the revised Magnuson-Stevens Act appears in the initial emergency rule (72 FR 2458, January 19, 2007) and is not repeated here. The emergency rule TAL is based on the revised rebuilding time frame ending no later than January 1, 2013, which supersedes the previous TAL of 12.983 million lb (5,889 mt) that was based on a rebuilding period end date of January 1, 2010. The 17.112-million-lb (7,762-mt) TAL will continue to be allocated 10.27 million lb (4,658 mt) to the commercial sector and 6.84 million lb (3,104 mt) to the recreational sector under this extension. The commercial

summer flounder state quotas remain unchanged by this extension from those described in the initial emergency action published on January 19, 2007 (72 FR 2458), and are not repeated here.

This emergency rule extension does not alter the previous amount of summer flounder set aside for research in the December 14, 2006, final rule. Four research projects that will utilize the previously established summer flounder RSA of 389,490 lb (177 mt) have been approved by NMFS.

#### Delaware Summer Flounder Closure

Under this extension to the January 19, 2007 (72 FR 2458) emergency rule, the amount of the 2006 summer flounder quota coverage (inclusive of overharvest from previous years) continues to be greater than the amount of commercial quota allocated to Delaware for 2007. As a result, there continues to be no quota available for 2007 in Delaware. The regulations at § 648.4(b) provide that Federal permit holders, as a condition of their permit, may not land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available for harvest. Therefore, landings of summer flounder in Delaware by vessels holding commercial Federal summer flounder fisheries permits are prohibited for the duration of this emergency rule extension, unless additional quota becomes available through a quota transfer and is announced in the **Federal Register**. Federally permitted dealers are advised that they may not purchase summer flounder from federally permitted vessels that land in Delaware for the duration of this emergency rule extension, unless additional quota becomes available through a transfer.

#### Comments and Responses

NMFS received one comment on the initial emergency action. NMFS received 1,321 form letters prior to the emergency rule comment period that are being considered as comments on the initial emergency rule. Some commenters submitted similar comments on separate occasions.

*Comment 1:* This commenter spoke in support of the original TAL implemented for January 1, 2007, and the previously mandated 10-year rebuilding schedule.

*Response:* The 12.983-million-lb (5,889-mt) TAL previously implemented by NMFS for the 2007 fishing year was considered sufficiently risk averse to ensure stock rebuilding occurred by January 1, 2010, as previously required by the Magnuson-

Stevens Act prior to its 2006 reauthorization. Following the reauthorization of the Magnuson-Stevens Act, the Secretary was afforded specific authority to extend the rebuilding period to no later than January 1, 2013, provided the criteria previously outlined in this rule were met. The criteria within section 120(a) of the Reauthorized Magnuson-Stevens Act were found by the Secretary to have been satisfied and, accordingly, NMFS recalculated the TAL for 2007 based on an extended rebuilding period. The resulting 17.112-million-lb (7,762-mt) TAL implemented by emergency rule (January 19, 2007, 72 FR 2458) and extended by this action has a 75-percent probability of achieving the new F level ( $F_{rebuild}=0.203$ ) calculated for stock rebuilding by January 1, 2013. The 17.112-million-lb (7,762-mt) TAL has a 99-percent probability of not exceeding the 2007  $F_{max}$  threshold (0.28). The 17.112-million-lb (7,762-mt) TAL and associated commercial and recreational management measures will effectively ensure that overfishing does not occur in the summer flounder fishery in 2007. The emergency rule TAL extended by this action will somewhat mitigate the socio-economic impacts associated with the lower TAL initially implemented for 2007 while ensuring that the requirements of the Magnuson-Act and the fishery management plan are met. NMFS asserts that this was the desired effect of the specific rebuilding period extension authority granted to the Secretary by the U.S. Congress through the Reauthorized Magnuson-Stevens Act.

*Comment 2:* One thousand three hundred and twenty-one comments were received as form letters from various recreational fishing groups. They spoke in favor of increasing the summer flounder TAL as soon as possible following the enactment of the Reauthorized Magnuson-Stevens Act. These commenters urged NMFS to establish a TAL with no more than a 50-percent probability of not exceeding the 2007 F target.

*Response:* The Reauthorized Magnuson-Stevens Act was signed into law on January 12, 2007. NMFS worked as quickly as possible to implement an increased TAL and published an initial emergency rule to increase the TAL from 12.983-million-lb (5,889-mt) to 17.112-million-lb (7,762-mt) on January 19, 2007 (72 FR 2458).

NMFS is continuing to implement measures designed to mitigate the retrospective patterns in fishing mortality, stock size, and recruitment by utilizing a more conservative TAL for 2007, to ensure that the necessary

fishing mortality target is actually achieved. The risk-averse approach of setting a TAL with a 75-percent probability of not exceeding the 2007 F target was applied in setting the initial 12.983-million-lb (5,889-mt) TAL effective on January 1, 2007 (71 FR 75134). This approach was also applied to the initial emergency action 17.112-million-lb (7,762-mt) TAL implemented on January 19, 2007 (72 FR 2458).

Achieving the fishing mortality target level in 2007 is necessary to provide for rebuilding of the summer flounder stock within the extended rebuilding period, ending no later than January 1, 2013, as implemented by the Reauthorized Magnuson-Stevens Act.

#### Classification

This emergency rule extension is published under the authority of the Magnuson-Stevens Act.

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

Because no general notice of proposed rulemaking is required to be published in the **Federal Register** for this emergency rule extension by 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act do not apply; thus, no Regulatory Flexibility Analysis was prepared.

The Assistant Administrator finds it is unnecessary and contrary to the public interest to provide for prior notice and an opportunity for public comment on this emergency rule extension. In the initial emergency rule published on January 19, 2007 (72 FR 2459), NMFS requested, and subsequently received, comments on the increased summer flounder TAL. Therefore, the agency has the authority to extend the emergency action for up to 186 days beyond the July 19, 2007, expiration of the initial emergency action. NMFS, through this action, extends the emergency action to the end of the 2007 fishing year (165 days), which ends on December 31, 2007.

The measures of this emergency rule extension remain unchanged from the measures contained in the initial emergency rule that increased the 2007 summer flounder TAL. The extension measures must be in place by July 19, 2007, or the lower TAL based on the 2010 rebuilding target will go into effect. The initial emergency rule implemented a higher TAL in response to authority granted by the reauthorization and amendment of the Magnuson-Stevens Act. Section 120 of the Reauthorized Magnuson-Stevens Act grants the Secretary the ability to extend the rebuilding period for summer

flounder from January 1, 2010, to no later than January 1, 2013. Congress intended this provision to be used to mitigate negative socio-economic impacts of the lower TAL for all of the 2007 and subsequent fishing seasons in the rebuilding period, provided the criteria for utilizing the longer rebuilding period were met. In implementing the initial emergency rule, the Secretary determined that the criteria had been met. Extending the provisions of the emergency rule without notice and comment rule will foreclose that possibility that the lower TAL would go into effect and cause disruption of the summer flounder fishery and unnecessary adverse economic impacts. Such a waiver is consistent with both Congressional

intent and the expectations of the public.

NMFS solicited public comment during the 30-day post-promulgation comment period on the measures contained in the initial emergency action and extended by this action. The comments received were considered and are addressed in the preamble to this rule; however, no change to the emergency action measures were enacted as a result of the comments received. The Council will be developing non-emergency measures for the 2008 fishing year that begins on January 1, 2008, to be implemented through notice and comment rulemaking. The public comments on the emergency rule will be considered in the context of that rulemaking.

The measures in this emergency rule extension continue to meet the fishing mortality objectives of the summer flounder fishery management plan and satisfies section 120 of the Reauthorized Magnuson-Stevens Act. Therefore, for the reasons outlined above, the Assistant Administrator finds it is unnecessary and contrary to the public interest to provide any additional notice and opportunity for public comment under 5 U.S.C. 553(b)(B) prior to publishing the emergency rule extension.

Dated: June 8, 2007.

**Samuel D. Rauch III,**

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

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