

**247.305-70 Returnable containers other than cylinders.**

Use the clause at 252.247-7021, Returnable Containers Other Than Cylinders, in solicitations and contracts for supplies involving contractor-furnished returnable reels, spools, or other returnable containers if the contractor is to retain title to the containers.

**247.370 [Removed]**

15. Section 247.370 is removed.

**247.371 and 247.372 [Redesignated]**

16. Sections 247.371 and 247.372 are redesignated as sections 247.370 and 247.371, respectively.

17. Newly designated sections 247.370 and 247.371 are revised to read as follows:

**247.370 DD Form 1384, Transportation Control and Movement Document.**

The transportation office of the shipping activity prepares the DD Form 1384 to accompany all shipments made through a military air or water port, in accordance with DoD 4500.9-R, Defense Transportation Regulation, Part II, Chapter 203.

**247.371 DD Form 1653, Transportation Data for Solicitations.**

The transportation specialist prepares the DD Form 1653 to accompany requirements for the acquisition of supplies. The completed form should contain recommendations for suitable f.o.b. terms and other suggested transportation provisions for inclusion in the solicitation.

**247.373 [Redesignated]**

18. Section 247.373 is redesignated as section 247.372.

19. Section 247.572-1 is amended by revising paragraph (b) to read as follows:

**247.572-1 Ocean transportation incidental to a contract for supplies, services, or construction.**

\* \* \* \* \*

(b) DD Form 1653, Transportation Data for Solicitations, shall be used—

(1) By the requesting activity in developing the Government estimate for transportation costs; and

(2) By the contracting officer in ensuring that valid shipping instructions and delivery terms are included in solicitations and contracts that may involve transportation of supplies by sea.

\* \* \* \* \*

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES****252.247-7000 through 252.247-7002 and 252.247-7004 through 252.247-7007 [Amended]**

20. Sections 252.247-7000 through 252.247-7002 and 252.247-7004 through 252.247-7007 are amended in the introductory text by removing “247.270-6” and adding in its place “247.270-3”.

**252.247-7008 [Amended]**

21. Section 252.247-7008 is amended in the introductory text and in Alternate I introductory text by removing “247.271-4” and adding in its place “247.271-2”.

**252.247-7009 through 252.247-7012 [Amended]**

22. Sections 252.247-7009 through 252.247-7012 are amended in the introductory text by removing “247.271-4” and adding in its place “247.271-2”.

**252.247-7013 [Amended]**

23. Section 252.247-7013 is amended in the introductory text as follows:

- By removing “247.271-4” and adding in its place “247.271-2”; and
- By removing the parenthetical “(see 247.271-2(b))”.

**252.247-7014 and 252.247-7016 through 252.247-7020 [Amended]**

24. Sections 252.247-7014 and 252.247-7016 through 252.247-7020 are amended in the introductory text by removing “247.271-4” and adding in its place “247.271-2”.

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 050708184-5184-01; I.D. 070105B]

RIN 0648-AT50

**Fisheries of the Northeastern United States; Atlantic Bluefish and Summer Flounder Fisheries**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to amend the regulations implementing the Fishery Management Plan (FMP) for the Atlantic bluefish fishery and the FMP for the summer flounder, scup, and black sea bass fisheries. This rule would make administrative changes that would allow NMFS to consider and process state commercial quota transfer requests that address late-season circumstances that necessitate a state quota transfer and that occur through December 31 (the end of the fishing year for the bluefish and summer flounder fisheries). The intent of this action is solely to provide the flexibility to address unpredictable late-season events (such as severe weather or port obstruction) that may result in safety concerns in the commercial bluefish and summer flounder fisheries.

**DATES:** Written comments must be received on or before August 10, 2005.

**ADDRESSES:** You may submit comments by any of the following methods:

- E-mail: [BF-SFtransfer@noaa.gov](mailto:BF-SFtransfer@noaa.gov).

Include in the subject line the following identifier: “Comments on Bluefish and Summer Flounder State Quota Transfer Amendment.”

- Federal e-Rulemaking portal: <http://www.regulations.gov>.

- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope: “Comments on Bluefish and Summer Flounder State Quota Transfer Amendment.”

- Fax: (978) 281-9135.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin, Fishery Policy Analyst, (978) 281-9279, fax (978) 281-9135.

**SUPPLEMENTARY INFORMATION:****Background**

The bluefish and summer flounder fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils. Regulations implementing the Atlantic Bluefish FMP appear at 50 CFR part 648, subparts A and J. Regulations implementing the summer flounder portion of the Summer Flounder, Scup, and Black Sea Bass FMP appear at 50 CFR part 648, subparts A and G. The regulations regarding quota transfers and combinations for the bluefish and summer flounder fisheries are found at §§ 648.160 and 648.100, respectively. For each fishery, the FMPs establish state allocations of the commercial

quotas, and current Federal regulations outline a process by which a state may request written approval from the Regional Administrator to transfer all or part of its annual commercial quota to one or more other states. Two or more states may request approval from the Regional Administrator to combine their commercial quotas, or part of their quotas, into an overall regional quota. As established initially through implementation of Amendment 1 to the Bluefish FMP (65 FR 45844, July 26, 2000) and Amendment 5 to the Summer Flounder FMP (58 FR 65937, December 17, 1993), the transfer of quota or the combination of quotas, if approved, is valid only for the calendar year for which the request was made and is effective upon the filing by NMFS of a notice of the approval of the transfer or combination with the Office of the **Federal Register**. Because the regulations stipulate that quota transfers and/or combinations are effective upon filing of a notice of approval with the Office of the **Federal Register**, NMFS is precluded from making quota transfers and/or combinations that file with the Office of the **Federal Register** in January of a given year, retroactively effective for the previous fishing year.

At its March 2005 meeting, the Council raised a concern regarding the current NMFS policy of considering only quota transfer requests submitted by December 15 of each year. NMFS established this policy to ensure that a notice announcing the quota transfer could be filed with the Office of the **Federal Register** by the end of the year for which the request is made. However, the Council is concerned that unforeseen circumstances such as severe weather or physical obstruction may prevent vessels from returning safely to their intended port of landing and that this situation has arisen and may continue to arise during the second half of December in any given year. End-of-year transfers of quota allow vessels to land in another state without causing overharvest of that state's fishing year quota, provided that both states agree to the transfer. At its May 2005 meeting, the Council passed a motion requesting that NMFS remove the text regarding time of effectiveness from the state commercial quota transfer regulations for both the bluefish and summer flounder fisheries at §§ 648.160(f)(2) and

648.100(d)(4), respectively. NMFS agrees that this administrative change in the regulations would facilitate the consideration and processing of state quota transfer requests to address unpredictable late-season events and consequent safety issues in these fisheries. This proposed rule would eliminate the references to time of effectiveness in the bluefish and summer flounder quota transfer and combination regulations. With these changes, quota transfer requests addressing unforeseen conditions in either fishery that arise late in the fishing year could be approved, even if the transfer request is made early in the subsequent fishing year. Any quota transfer would continue to be valid only for the calendar year for which the request is made, and would therefore have no impact on the resource or the mortality objectives of the FMPs.

**Classification**

NMFS has determined that the proposed rule is consistent with the Atlantic bluefish FMP and the Summer Flounder, Scup, and Black Sea Bass FMP and has preliminarily determined that the rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This proposed 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 that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed rule is administrative in nature and merely would eliminate the specification that bluefish and summer flounder quota transfer or combination requests will be effective upon filing of a notice of approval with the Office of the **Federal Register**. This would allow NMFS to consider and process state quota transfer requests that address late-season circumstances that necessitate a state quota transfer and that occur through December 31 (the end of the fishing year for the bluefish and summer flounder fisheries), even if the notice announcing the transfer were filed with the Office of the **Federal Register** after the start of the subsequent fishing year.

A quota transfer would continue to be valid only for the calendar year (and fishing year) for which the request is made. This rule would not alter the results of the Regulatory Flexibility Analyses prepared annually to address economic impacts to individual vessels resulting from the specification of annual quotas in these fisheries. As a result, an initial regulatory flexibility analysis is not required and none has been prepared. The proposed action would provide flexibility to mitigate safety concerns and would impose no burden on small entities.

**List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 20, 2005.

**James W. Balsiger**

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

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be 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 § 648.100, revise paragraph (d)(4) to read as follows:

**§ 648.100 Catch quotas and other restrictions.**

\* \* \* \* \*

(d) \* \* \*

(4) The transfer of quota or the combination of quotas will be valid only for the calendar year for which the request was made.

\* \* \* \* \*

3. In § 648.160, revise paragraph (f)(2) to read as follows:

**§ 648.160 Catch quotas and other restrictions.**

\* \* \* \* \*

(f) \* \* \*

(2) The transfer of quota or the combination of quotas will be valid only for the calendar year for which the request was made.

\* \* \* \* \*

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