

To continue to address overfishing of red snapper pending implementation of more permanent measures recommended by the Council in Amendment 27/14, NMFS published a temporary rule (72 FR 54223, September 24, 2007) to extend the effective date of the interim measures contained in the April 2, 2007, temporary final rule (72 FR 15617). Although the extension of the interim measures was properly promulgated and those interim measures are still applicable, a technical error resulted in the extended interim measures not being incorporated into the Code of Federal Regulations as intended. To correct this inadvertent error, NMFS, via this temporary rule, is republishing the regulatory text of the interim measures contained in the April 2, 2007, temporary final rule (72 FR 15617), with an effective date from November 27, 2007 through March 28, 2008, which is consistent with the Magnuson-Stevens Act and with the intent of the September 24, 2007, temporary rule (72 FR 54223).

Additional details concerning the basis for these interim measures and discussion of the ongoing efforts of the Council and NMFS to evaluate and implement measures to rebuild the red snapper stock consistent with the requirements of the Magnuson-Stevens Act are contained in the preamble of the December 14, 2006, temporary proposed rule (71 FR 75220) and are not repeated here. Public comment and NMFS' responses are contained in the preamble of the April 2, 2007, temporary final rule (72 FR 15617) and are not repeated here.

**Classification**

The Administrator, Southeast Region, NMFS, (RA), has determined that this temporary rule is necessary to resolve an inadvertent error in the Code of Federal Regulations, and is consistent with the Magnuson-Stevens Act and other applicable laws.

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

This temporary rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and comment.

An FEIS was prepared for the interim measures contained in the April 2, 2007, temporary rule. The conditions that existed at the time the April 2, 2007, temporary rule was implemented have not changed, and the republication of those same interim measures has no additional impact beyond those already considered in the FEIS. Copies of the

FEIS are available from NMFS (see ADDRESSES).

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and opportunity for public comment on this temporary rule. This rule would republish the same interim measures for which opportunity for public comment was solicited in a proposed interim rule published on December 14, 2006 (71 FR 75220). These same interim measures were implemented by the April 2, 2007, interim final rule (72 FR 15617) and extended by the September 24, 2007, interim rule (72 FR 54223). The conditions prompting the initial temporary rule still remain. Because the republishing of these interim measures is only necessary to resolve an inadvertent technical error that resulted in these extended interim measures not being incorporated into the Code of Federal Regulations as intended, there is no additional regulatory burden associated with this temporary rule. Therefore, the AA finds that it would be unnecessary to provide additional opportunity for public comment.

The AA also finds good cause under 5 U.S.C. 553(d)(3) to waive the delay of the effective date of this temporary rule. This republication of interim measures does not impose any additional regulatory burden on the public; it resolves a technical error that resulted in the already effective interim measures not being incorporated into the Code of Federal Regulations as intended. Therefore, NMFS finds good cause to waive the 30-day delay in effectiveness for this temporary rule.

**List of Subjects in 50 CFR Part 622**

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: November 20, 2007.

**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 622 is amended as follows:

**PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC**

1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.37, paragraph (d)(1)(iv) is suspended and paragraph (d)(1)(vi) is added to read as follows:

**§ 622.37 Size limits.**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(vi) Red snapper--16 inches (40.6 cm), TL, for a fish taken by a person subject to the bag limit specified in § 622.39(b)(1)(iii) and 13 inches (38.1 cm), TL, for a fish taken by a person not subject to the bag limit.

\* \* \* \* \*

■ 3. In § 622.39, paragraphs (b)(1)(iii) and (b)(1)(v) are suspended and paragraphs (b)(1)(viii) and (b)(1)(ix) are added to read as follows:

**§ 622.39 Bag and possession limits.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(viii) Red snapper -2. However, no red snapper may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero.

(ix) Gulf reef fish, combined, excluding those specified in paragraphs (b)(1)(i), (ii), (iv), (vi), (vii), and (viii) of this section and excluding dwarf sand perch and sand perch--20, but not to exceed 10 vermilion snapper.

\* \* \* \* \*

■ 4. In § 622.42, paragraphs (a)(1)(i) and (a)(2) are suspended and paragraphs (a)(1)(v) and (a)(3) are added to read as follows:

**§ 622.42 Quotas.**

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(v) Red snapper -3.315 million lb (1.504 million kg), round weight.

\* \* \* \* \*

(3) *Recreational quota for red snapper.* The following quota applies to persons who harvest red snapper other than under commercial vessel permits for Gulf reef fish and the commercial quota specified in paragraph (a)(1)(v) of this section-- 3.185 million lb (1.445 million kg), round weight.

\* \* \* \* \*

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

[Docket No. 061109296-7009-02]

RIN 0648-XE07

## 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 the State of Delaware is transferring commercial bluefish quota to the State of Rhode Island from its 2007 quota. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

**DATES:** Effective November 21, 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.

Delaware has agreed to transfer 80,000 lb (36,287 kg) of its 2007 commercial quota to Rhode Island. 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: Rhode Island, 663,790 lb (301,090 kg); and Delaware, 81,055 lb (36,766 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: November 21, 2007.

**Emily Menashes,**

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

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

[Docket No. 061109296-7009-02]

RIN 0648-XD64

## Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Commercial Quota Harvested for New York

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS announces that the 2007 Atlantic bluefish commercial quota allocated to the State of New York has been harvested. Vessels issued a commercial Federal fisheries permit for the Atlantic bluefish fishery may not land bluefish in New York for the remainder of calendar year 2007, unless additional quota becomes available through a transfer from another state. Regulations governing the Atlantic bluefish 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 bluefish in New York.

**DATES:** Effective 0001 hours, November 27, 2007, through 2400 hours, December 31, 2007.

**FOR FURTHER INFORMATION CONTACT:** Emily Bryant, Fishery Management Specialist, (978) 281-9244.

**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 on a percentage basis 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.

The initial total commercial quota for Atlantic bluefish for the 2007 calendar year was set equal to 8,688,760 lb (3,941 mt) (72 FR 4458, January 31, 2007). The percent allocated to vessels landing

bluefish in New York is 10.3851 percent, resulting in a commercial quota of 902,336 lb (409,927 kg). The 2007 allocation was reduced to 884,278 lb (401,106 kg) when research set-aside was deducted and after the 2006 overages had been applied.

Subsequently, during the 2007 fishing year, New York received two transfers of bluefish quota from Virginia in the amounts of 150,000 lb (68,039 kg) (72 FR 10934) and 200,000 lb (90,718 kg) (72 FR 62416). These transfers increased New York's bluefish quota allocation to 1,234,278 lb (559,859 kg).

Section 648.161(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 bluefish in that state. The Regional Administrator has determined, based upon dealer reports and other available information, that New York has harvested its quota for 2007.

The regulations at § 648.4(b) provide that Federal permit holders agree, as a condition of the permit, not to land bluefish in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, November 27, 2007, further landings of bluefish in New York by vessels holding bluefish commercial Federal fisheries permits are prohibited for the remainder of the 2007 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 0001 hours, November 27, 2007, federally permitted dealers are also notified that they may not purchase bluefish 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 from another state.

## Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: November 21, 2007.

**Emily H. Menashes,**

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

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