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

[Docket No. 070717341-8549-02]

RIN 0648-AV41

Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea bass Fisheries; Fishing Year 2008

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

ACTION: Final rule; correction.

SUMMARY: On May 23, 2008, NMFS published a final rule implementing the recreational management measures for the 2008 summer flounder, scup, and black sea bass fisheries. The final rule contains several errors throughout the preamble. This document corrects those errors.

DATES: Effective June 23, 2008.

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

SUPPLEMENTARY INFORMATION: The final rule for the 2008 recreational management measures for summer flounder, scup, and black sea bass was published in the **Federal Register** on May 23, 2008 (73 FR 29990). There were several errors throughout the preamble text.

Corrections

In final rule FR Doc. E8-11601, on page 29991 of the May 23, 2008, issue of the **Federal Register**, make the following corrections:

1. On page 29991, in column 3, under the Black Sea Bass Management Measures caption, the first sentence is corrected to read as follows:

“Table 3 contains the coastwide Federal measures for black sea bass in effect for 2007 and codified.”

2. On page 29992, in column 1, under the Comments and Responses caption, the second sentence is corrected to read as follows:

“One individual submitted comments regarding several species such as mackerel, red hake, and marlin which are outside the scope of this rulemaking.”

3. On page 29992, in column 1, under the Comment 1 caption, the first sentence is corrected to read as follows:

“Some of the comments received allege that state-by-state conservation equivalency violates National Standard 2 of the Magnuson-Stevens Act, which requires conservation and management actions to be based upon the best available scientific information.”

4. On page 29992, in column 2, in the 27th line, the sentence is corrected to read as follows:

“In addition, NMFS encouraged states to take a more conservative approach to both improve conservation equivalency’s performance and to offset uncertainty in the assessment of potential measures effectiveness.”

5. On page 29992, in column 3, the first full paragraph should read:

“The use of MRFSS data was challenged, along with other aspects of the agency’s actions, in 2006 in the case *United Boatmen, et al., v. Gutierrez*³, the Secretary of Commerce (Secretary). The plaintiffs alleged that MRFSS was a gravely flawed tool and unsuitable for use in setting the summer flounder TAL. NMFS responded that MRFSS, while admittedly having limitations, has been upheld under National Standard 2 as the best available scientific information. The defendants’ brief cited three separate cases wherein MRFSS had been upheld as the best available scientific information relative to National Standard 2. In this case, the judge found in favor of the Secretary on all points, adding further support to the adequacy of MRFSS data for use in fisheries management as the best available science.”

6. On page 29993, in column 3, the last full paragraph is corrected to read as follows:

“For these reasons, NMFS believes that implementing conservation equivalency, as recommended by the Council and Commission for 2008, does not violate National Standard 4 or National Standard 2 of the Magnuson-Stevens Act.”

7. On page 29994, in column 1, in the first full paragraph, the fourth sentence is corrected to read as follows:

“National Standard 6 directs FMPs to have a suitable buffer, in favor of conservation, to deal with uncertainty, which may also be stated as a conservative approach.”

8. On page 29995, in column 2, in the 13th line the sentence is corrected to read as follows:

“As such, it is a more conservative approach than applied in previous years, and presents a higher likelihood that the 2008 recreational harvest limit will not be exceeded on either a state-

by-state basis or coastwide, and that the subsequent mortality objectives will be met for the 2008 fishing year.”

9. On page 29996, in column 1, in the first full paragraph, the first sentence is corrected to read as follows:

“NMFS acknowledges that state-by-state conservation equivalency has not performed ideally, since the summer flounder recreational harvest limit has been exceeded in 5 of the 7 years where it has been utilized.”

10. On page 29997, in column 1, the first full paragraph is corrected to read as follows:

“A summary of the comments received and NMFS’ responses thereto is contained in the preamble of this rule. None of those comments addressed specific information contained in the IRFA economic analysis. One comment received stated that NMFS had not conducted an economic analysis for the 2008 recreational management measures and some commenters generally indicated that the management measures implemented by this rule may have an economic impact. See response to Comment 7 in the Comment and Responses section for more information. No changes have been made from the proposed rule as a result of the comments received by NMFS.”

11. On page 29998, in column 2, in the 13th line from the bottom, the sentence is corrected to read as follows:

“Conservation equivalency is generally expected to mitigate the economic impact in states with lower required percent reductions for 2008 compared to the coastwide reduction of 33.2 percent.”

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

Dated: May 29, 2008.

Samuel D. Rauch III,

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

[FR Doc. 08-1317 Filed 5-30-08; 2:51 pm]

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

[Docket No. 080428607-8689-02]

RIN 0648-AW69

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Allocation of Trips to Closed Area II Yellowtail Flounder Special Access Program

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

ACTION: Final rule; allocation of trips.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has allocated zero trips to the Closed Area (CA) II Yellowtail Flounder Special Access Program (SAP) during the 2008 fishing year (FY) (i.e., May 1, 2008, through April 30, 2009). The Regional Administrator has determined that the available catch of Georges Bank (GB) yellowtail flounder is insufficient to support a minimum level of fishing activity within the CA II Yellowtail Flounder SAP for FY 2008. The intent of this action is to help achieve optimum yield (OY) in the fishery by maximizing the utility of available GB yellowtail flounder TAC throughout FY 2008.

DATES: Effective June 30, 2008.

ADDRESSES: Copies of the final rule implementing the FY 2008 TAC for GB yellowtail flounder in the U.S./Canada Management Area are available upon request from the NE Regional Office at the following mailing address: George H. Darcy, Assistant Regional Administrator for Sustainable Fisheries, NMFS, Northeast Regional Office, 1

Blackburn Drive, Gloucester, MA 01930. Copies may also be requested by calling (978) 281-9315.

FOR FURTHER INFORMATION CONTACT:

Douglas Potts, Fishery Management Specialist, (978) 281-9341, FAX (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Framework Adjustment (FW) 40B (70 FR 31323; June 1, 2005) requires that the Regional Administrator annually allocate the total number of trips into the CA II Yellowtail Flounder SAP. A formula was developed in FW 40B to assist the Regional Administrator in determining the appropriate number of trips for this SAP on a yearly basis. The FY 2008 calculations for this equation were detailed in the proposed rule for this action (73 FR 24936; May 6, 2008) and are not repeated here.

FW 40B authorized the Regional Administrator to allocate zero trips to this SAP if the available GB yellowtail flounder catch is not sufficient to support 150 trips with a 15,000-lb (6,804-kg) trip limit (i.e., if the available GB yellowtail catch is less than 1,021 mt). Using the formula developed in FW 40B, and based on the 1,950-mt U.S./Canada GB yellowtail flounder TAC for 2008 (73 FR 16571; March 28, 2008), the Regional Administrator has determined that there will be insufficient GB yellowtail flounder TAC to support the CA II Yellowtail Flounder SAP for FY 2008. Therefore, zero trips are allocated to the SAP for FY 2008.

Comments and Responses

One comment was received on this action.

Comment 1: One commenter did not specifically address the proposed allocation of trips, but asserted that the CA II Yellowtail Flounder SAP should be closed for the next 10 years and very severe penalties adopted for violators.

Response: The current regulatory restrictions in place, including the CA II Yellowtail Flounder SAP, are designed to protect and rebuild fish stocks in

accordance with applicable laws. Depending on the amount of GB yellowtail flounder TAC available, the regulations allow the Regional Administrator, in consultation with the Council, to consider keeping the SAP closed on an annual basis or to allow an allocation of trips. NMFS does not believe that a closure on a more prolonged basis is necessary at this time.

Classification

The Regional Administrator has determined that this action is necessary for the conservation and management of the NE multispecies fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule has been determined to be not significant for the 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.

This final rule does not contain any new, nor does it revise existing reporting, recordkeeping, or other compliance requirements.

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

Dated: May 30, 2008.

Samuel D. Rauch III,

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

[FR Doc. 08-1316 Filed 5-30-08; 2:50 pm]

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