

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS' ability to timely implement actions such as quota and retention limit adjustments, as well as closures, and may result in enforcement actions. Additionally, and separate from the dealer reporting requirement, General category and HMS Charter/Headboat vessel owners are required to report the catch of all BFT retained or discarded dead within 24 hours of the landing(s) or the end of each trip, by accessing hmspermits.noaa.gov or by using the HMS Catch Reporting app or calling (888) 872-8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Under § 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range of zero to a maximum of five per vessel based on consideration of the relevant criteria provided under § 635.27(a)(8). However, at this time, NMFS is maintaining the default daily retention limit of one large medium or giant BFT per vessel per day/trip (§ 635.23(a)(2)) for the January through March 2022 General category fishery. Regardless of the duration of a fishing trip, no more than a single day's retention limit may be possessed, retained, or landed. For example (and specific to the limit that will apply beginning January 1, 2022), whether a vessel fishing under the General category limit takes a 2-day trip or makes two trips in 1 day, the daily limit of one fish may not be exceeded upon landing. This General category retention limit is effective in all areas, except for the Gulf of Mexico, where NMFS prohibits targeted fishing for BFT, and applies to those vessels permitted in the General category, as well as to those HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustments (e.g., quota adjustment, daily retention limit adjustment, or closure) are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281-9260, or access hmspermits.noaa.gov, for updates on

quota monitoring and inseason adjustments.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act and regulations at 50 CFR part 635 and is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and its amendments provide for inseason adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Affording prior notice, an opportunity for public comment, and a delay in effective date regarding this quota transfer for the January through March 2022 subquota period is impracticable and contrary to the public interest. NMFS could not have proposed this action earlier, as it needed to consider and respond to updated landings data, including the recently available December 2021 data, in deciding to transfer a portion of the December 2022 subquota to the January through March 2022 subquota. If NMFS was to offer a public comment period or delay in effective date now, after having appropriately considered that data, it could preclude fishermen from harvesting BFT that are legally available consistent with all of the regulatory criteria. This action does not raise conservation and management concerns. Transferring quota within the General category does not affect the overall U.S. BFT quota, and the adjustment would have a minimal risk of exceeding the ICCAT-allocated quota. NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the U.S. BFT quota and the inseason adjustment criteria. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For these reasons, there also is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effective date.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: December 20, 2021.

Nagne Jafnar Gueye,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 2021-27898 Filed 12-20-21; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 211217-0262; RTID 0648-XX072]

Fisheries of the Northeastern United States; 2022 and Projected 2023 Summer Flounder, Scup, and Black Sea Bass Specifications

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

ACTION: Final rule.

SUMMARY: NMFS announces 2022 and projected 2023 specifications for the summer flounder, scup, and black sea fisheries. The implementing regulations for the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan require us to publish specifications for the upcoming fishing year for each of these species. This action is intended to inform the public of the specifications for the start of the 2022 fishing year for summer flounder, scup, and black sea bass.

DATES: This rule is effective January 1, 2022.

ADDRESSES: A Supplemental Information Report (SIR) was prepared for the 2022-2023 summer flounder, scup, and black sea bass specifications. Copies of the SIR are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. The SIR is also accessible via the internet at https://www.mafmc.org/s/SFSBSB_2022-2023_specs_SIR_final.pdf.

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Policy Analyst, (978) 281-9116.

SUPPLEMENTARY INFORMATION:

General Background

The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) cooperatively manage the summer flounder, scup, and black sea bass fisheries. The Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) outlines the Council's process for establishing specifications. The FMP requires NMFS to set an acceptable biological catch (ABC), annual catch limit (ACL), annual catch targets (ACT), commercial quotas,

recreational harvest limit (RHL), and other management measures, for each species for 1 to 3 years at a time. This action implements 2022 and projects 2023 ABCs, as well as the recreational and commercial ACLs, ACTs, commercial quotas, and RHLs for all three species, consistent with the recommendations made by the Commission’s Summer Flounder, Scup, and Black Sea Bass Board (Board) and the Council at their joint August 2021 meeting.

The Scientific and Statistical Committee (SSC) met on July 22, 2021, to review the results of the 2021 management track stock assessments and recommend 2022 and 2023 ABCs for all three species; specific recommendations are discussed below.

Final 2022–2023 Specifications

Summer Flounder Specifications

This action approves the Council and Board recommended 2022–2023

summer flounder catch and landings limits as shown in Table 1. The recommendations are based on the most recent (2021) stock assessment and the application of the Council’s risk policy. For summer flounder, this results in a 22-percent increase in the recommended 2022 and 2023 ABC over the 2021 ABC. The proposed rule (November 24, 2021; 86 FR 67014) and Section 5.2 of the Council’s SIR provides information on how the specifications were calculated.

TABLE 1—SUMMARY OF 2022 AND PROJECTED 2023 SUMMER FLOUNDER FISHERY SPECIFICATIONS

Specifications	Mil lb.	Metric ton
Overfishing Limit (OFL)	2022: 36.28 2023: 34.98	2022: 16,458 2023: 15,865
ABC	33.12	15,021
Commercial ACL = ACT	18.48	8,382
Commercial Quota	15.53	7,046
Recreational ACL = ACT	14.64	6,639
RHL	10.36	4,697

The final state summer flounder commercial quotas take into account any averages that occurred during the

2020 or current fishing year, through October 31, as described at 50 CFR 648.103(b)(2). The final 2022 state-by-

state summer flounder commercial quotas are provided in Table 2.

TABLE 2—FINAL 2022 SUMMER FLOUNDER STATE-BY-STATE COMMERCIAL QUOTAS

State	Final 2022 quotas (lb)	Final 2022 quotas (mt)
ME	24,488	11.11
NH	19,990	9.07
MA	1,391,846	631.33
RI	2,238,216	1,015.24
CT	956,043	433.65
NY	1,470,779	667.13
NJ	2,337,728	1,060.38
DE	– 19,173	– 8.70
MD	935,226	424.21
VA	2,776,242	1,259.28
NC	3,361,569	1,524.78
Total	15,512,127	7,036.18

Note: Summed not including Delaware.

This action makes no changes to the current commercial management measures, including the minimum fish size (14-inch (36-cm) total length), gear requirements, and possession limits. Changes to 2022 recreational management measures (bag limits, size limits, and seasons) are not considered in this action but will be considered by the Board and Council later this year

when additional data are available for 2021.

Black Sea Bass Specifications

This action approves the Council and Board recommended 2022–2023 black sea bass catch and landings limits as shown in Table 3. The recommendations are based on the most recent (2021) stock assessment and the

application of the Council’s risk policy. This results in a 2022 black sea bass ABC that is an 8-percent increase compared to 2021 and a projected 2023 ABC that is a 5-percent decrease compared to 2021. The proposed rule and Section 5.2 of the Council’s SIR provides information on how the specifications were calculated.

TABLE 3—2022 AND PROJECTED 2023 BLACK SEA BASS CATCH AND LANDINGS LIMITS

Specifications	2022		2023	
	Mil lb.	Metric ton	Mil lb.	Metric ton
OFL	19.26	8,735	17.01	7,716
ABC	18.86	8,555	16.66	7,557

TABLE 3—2022 AND PROJECTED 2023 BLACK SEA BASS CATCH AND LANDINGS LIMITS—Continued

Specifications	2022		2023	
	Mil lb.	Metric ton	Mil lb.	Metric ton
Expected Commercial Discards	3.63	1,649	3.21	1,456
Expected Recreational Discards	2.02	917	1.79	810
Commercial ACL = ACT	10.10	4,583	8.93	4,048
Commercial Quota	6.47	2,934	5.71	2,592
Recreational ACL = ACT	8.76	3,972	7.74	3,509
RHL	6.74	3,055	5.95	2,699

This action does not change the 2022 commercial management measures for black sea bass, including the commercial minimum fish size (11-inch (27.94-cm) total length) and gear requirements.

Scup Specifications

This action approves the Council and Board recommended 2022–2023 scup catch and landings limits as shown in Table 4. The recommendations are based on the most recent (2021) stock assessment and the application of the

Council’s risk policy. This results in a 2022 ABC that is 8 percent less than the 2021 ABC; the projected 2023 ABC is 15 percent less than the 2021 ABC. The proposed rule and Section 5.2 of the Council’s SIR provides information on how the specifications were calculated.

TABLE 4—2022 AND PROJECTED 2023 SCUP CATCH AND LANDINGS LIMITS

Specifications	2022		2023	
	Mil lb.	Metric ton	Mil lb.	Metric ton
OFL	32.56	14,770	30.09	13,648
ABC	32.11	14,566	29.67	13,460
Expected Commercial Discards	4.67	2,117	5.28	2,394
Expected Recreational Discards	0.99	447	1.12	506
Commercial ACL = ACT	25.05	11,361	23.15	10,499
Commercial Quota	20.38	9,245	17.87	8,105
Recreational ACL = ACT	7.06	3,205	6.53	2,961
RHL	6.08	2,757	5.41	2,455

The commercial scup quota is divided into three commercial fishery quota periods, as outlined in Table 5.

TABLE 5—COMMERCIAL SCUP QUOTA ALLOCATIONS FOR 2022 BY QUOTA PERIOD

Quota Period	Percent share	lb	mt
Winter I	45.11	9,194,201	4,170
Summer	38.95	7,938,686	3,601
Winter II	15.94	3,248,849	1,474
Total	100.0	20,381,736	9,245

The current quota period possession limits are not changed by this action and are outlined in Table 6.

TABLE 6—COMMERCIAL SCUP POSSESSION LIMITS BY QUOTA PERIOD

Quota period	Percent share	Federal possession limits (per trip)	
		lb	kg
Winter I	45.11	50,000	22,680
Summer	38.95	N/A	N/A
Winter II	15.94	12,000	5,443
Total	100.0	N/A	N/A

The Winter I possession limit will drop to 1,000 lb (454 kg) when 80 percent of that period’s allocation is landed. If the Winter I quota is not fully harvested, the remaining quota is

transferred to Winter II. The Winter II possession limit may be adjusted (in association with a transfer of unused Winter I quota to the Winter II period) via notification in the **Federal Register**.

The regulations specify that the Winter II possession limit increases consistent with the increase in the quota, as described in Table 7.

TABLE 7—POTENTIAL INCREASE IN WINTER II POSSESSION LIMITS BASED ON THE AMOUNT OF UNUSED SCUP ROLLED OVER FROM WINTER I TO WINTER II

Initial Winter II possession limit		Rollover from Winter I to Winter II		Increase in initial Winter II possession limit		Final Winter II possession limit after rollover from Winter I to Winter II	
lb	kg	lb	kg	lb	kg	lb	kg
12,000	5,443	0–499,999	0–226,796	0	0	12,000	5,443
12,000	5,443	500,000–999,999	226,796–453,592	1,500	680	13,500	6,123
12,000	5,443	1,000,000–1,499,999	453,592–680,388	3,000	1,361	15,000	6,804
12,000	5,443	1,500,000–1,999,999	680,389–907,184	4,500	2,041	16,500	7,484
12,000	5,443	* 2,000,000–2,500,000	907,185–1,133,981	6,000	2,722	18,000	8,165

* This process of increasing the possession limit in 1,500-lb (680-kg) increments would continue past 2,500,000 lb (1,122,981 kg), but we end here for the purpose of this example.

This action does not change the 2022 commercial management measures for scup, including the minimum fish size (9-inch (22.9-cm) total length), gear requirements, and quota period possession limits. As with summer flounder and black sea bass, potential changes to the recreational measures (bag limits, size limits, and seasons) for 2022 will be considered later this year when additional data are available for 2021.

Comments and Responses

We received one comment on the proposed rule (November 24, 2021; 86 FR 67014). The comment was from the State of New York and the New York State Department of Environmental Conservation (hereinafter referenced as “New York”). New York’s comment comprises a cover letter and seven attachments. The attachments were the comment letters and supporting documents that New York previously submitted in response to the proposed rule for the 2020–2021 Summer Flounder, Scup, Black Sea Bass, and Bluefish Specifications (84 FR 36046; July 26, 2019) and the proposed rule for Amendment 21 to the FMP (85 FR 48660; August 12, 2020). Similar to arguments made in ongoing litigation, New York contends that the revised allocations and resulting quotas are not in accordance with Magnuson-Stevens Act’s National Standards 2, 4, 5, and 7. NMFS’ responses to New York’s previously submitted comments can be found in the final rules for those two actions (84 FR 54041; October 9, 2019, and 85 FR 80661; December 14, 2020) and are not repeated here. The state commercial summer flounder allocation formula is established in the regulations at 50 CFR 648.102(c), and as such must

be followed in setting the quotas in this specifications action. Deviating from this formula would require a rulemaking to modify the current regulations, which is beyond the scope of this action.

Changes From the Proposed Rule

As described in the proposed rule, the summer flounder specifications in this final rule incorporate overage information to calculate the final state quotas that was not available previously.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Assistant Administrator for Fisheries finds that the need to implement these measures in a timely manner constitutes good cause, under the authority contained in 5 U.S.C. 553(d)(3), to waive the 30-day delay in effective date of this action. This action implements 2022 specifications for the summer flounder, scup, and black sea bass fisheries. These specifications should be effective by the start of the fishing year on January 1, 2022, and must be published on or before December 31, 2021.

This rule is being issued at the earliest possible date. Preparation of the proposed rule was dependent on the Council’s submission of the SIR. NMFS received the final version of the SIR on November 5, 2021. Preparation of the final rule is also dependent on the analysis of commercial summer flounder landings for the prior fishing

year (2020) and the current fishing year through October 31, 2021, to determine whether any overages have occurred and adjustments are needed to the final state quotas. This process is codified in the summer flounder regulations and, therefore, cannot be performed earlier. Annual publication of the summer flounder quotas prior to the start of the fishing year, by December 31, is required by Court Order in *North Carolina Fisheries Association v. Daley*.

The 30-day delay in implementation for this rule is also unnecessary because this rule contains no new measures (e.g., requiring new nets or equipment) for which regulated entities need time to prepare or revise their current practices. This final rule is exempt from review under 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 contains no information collection requirements under the Paperwork Reduction Act of 1995.

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

Dated: December 17, 2021.

Samuel D. Rauch, III,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 201204-0325]

RIN 0648-BL10

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2021-2022 Biennial Specifications and Management Measures; Inseason Adjustments

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

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces routine inseason adjustments to management measures in commercial and recreational groundfish fisheries. This action is intended to allow commercial and recreational fishery participants to access more abundant groundfish stocks while protecting rebuilding stocks.

DATES: This final rule is effective January 1, 2022.

FOR FURTHER INFORMATION CONTACT: Sean E. Matson, (206) 526-6140, email: sean.matson@noaa.gov.

ADDRESSES:

Electronic Access

This rule is accessible via the internet at the Office of the Federal Register website at <https://www.federalregister.gov>. Background information and documents are available at the Pacific Fishery Management Council's website at <http://www.pcouncil.org/>.

SUPPLEMENTARY INFORMATION:

Background

The Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish off the coasts of Washington, Oregon,

and California. The Pacific Fishery Management Council (Council) develops groundfish harvest specifications and management measures for two year periods (*i.e.*, a biennium). NMFS published the final rule to implement harvest specifications and management measures for the 2021-2022 biennium for most species managed under the PCGFMP on December 11, 2020 (85 FR 79880). In general, the management measures set at the start of the biennial harvest specifications cycle help the various sectors of the fishery attain, but not exceed, the catch limits for each stock. The Council, in coordination with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, recommends adjustments to the management measures during the fishing year to achieve this goal.

At its meeting on November 15-22, 2021, the Council made recommendations for the 2022 fishing year, which included decreasing trip limits for the Limited Entry (LE) and Open Access (OA) fixed gear (FG) sablefish, Daily Trip Limit (DTL) fisheries north of 36° N latitude. The Council also recommended increasing trip limits for the fixed gear lingcod fishery, north of 42° N latitude (LE and OA), beginning January 1, 2022, and for the remainder of the 2022 fishing year unless superseded by a subsequent action. Additionally, the Council recommended new sub-bag limits and sub-trip limits, in recreational and non-trawl commercial fisheries respectively, for two nearshore species, quillback rockfish and copper rockfish, as well as the shelf species vermilion rockfish.

Pacific Coast groundfish fisheries are managed using harvest specifications or limits (*e.g.*, overfishing limits [OFL], acceptable biological catch [ABC], annual catch limits [ACL] and harvest guidelines [HG]) recommended biennially by the Council and based on the best scientific information available at that time (50 CFR 660.60(b)). During development of the harvest specifications, the Council also recommends management measures (*e.g.*, trip limits, area closures, and bag limits) that are meant to manage catch so as not to exceed the harvest specifications. The harvest specifications and management measures developed for the 2021-2022 biennium used data through the 2020 fishing year. Each of the adjustments to management measures discussed below are based on updated fisheries information that was unavailable when the analysis for the current harvest specifications was completed. As new fisheries data become available,

projected impacts of management measures are updated, and the management measures themselves may need to be adjusted so as to help harvesters achieve but not exceed the harvest limits.

Sablefish (*Anoplopoma fimbria*) is an important commercial species on the West Coast, targeted by vessels using both bottom trawl and fixed gear (longlines and pots/traps). The sablefish stock is managed with a coast-wide OFL and ABC, but with separate ACLs north and south of 36° N latitude. In 2022, the ACL for sablefish north of 36° N latitude is 6,566 metric tons (mt) with a fishery HG of 5,872 mt. The fishery HG north of 36° N latitude is further divided between the LE FG and OA sectors with 90.6 percent, or 5,320 mt, allocated to the LE sector and 9.4 percent, or 552 mt, allocated to the OA sector. The LE share is divided so that 58 percent is allocated to trawl and 42 percent is allocated to FG. The LE FG share is further divided between the sablefish primary (tier) fishery (85% or 1,899 mt) and the daily trip limit (DTL) fisheries (15% or 335 mt), as shown in Table 2c to title 50, part 660, subpart C. The sablefish DTL fisheries are individually managed using landing targets (Table 1), which have accounted for discard mortality a priori, by subtracting 4.5 percent from the DTL catch share. This same method of accounting for discard mortality to calculate the landing target is also used in managing the OA sablefish DTL fishery, north of 36° N latitude (Table 1).

Lingcod (*Ophiodon elongates*) is another important commercial species on the West Coast, and like sablefish, caught by vessels with both trawl and fixed gear (longlines and pots/traps). The lingcod stock is managed separately north and south of 40°10' N latitude, with a northern ACL of 4,958 mt in 2022, a fishery HG of 4,679.6 mt, and a northern trawl fixed gear allocation of 2,105.8, or 45 percent of the HG, and a northern non-trawl allocation of 2,573.8, or 55 percent. Lingcod north of 40°10' N latitude are additionally managed north and south of 42° N latitude, typically with different trip limits set north and south of that management line.

Quillback rockfish (*Sebastes maliger*) off California (CA), are currently managed as part of the Minor Nearshore Rockfish complex, which is split north and south of 40°10' N latitude. A stock assessment conducted in 2021 indicated the stock is not healthy, and interim measures to reduce mortality are warranted while broader measures are being developed as part of the 2023-2024 groundfish biennial harvest specifications and management