

Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to a final rule. The document being corrected is the regulations governing the Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the New England Wind Project, Offshore Massachusetts, published on June 21, 2024.

DATES: Effective on March 27, 2025.

FOR FURTHER INFORMATION CONTACT: Karolyn Lock, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

NMFS published a final rule in the **Federal Register** on June 21, 2024 (89 FR 52222) announcing the promulgation of regulations governing the incidental take of marine mammals incidental to Avangrid Renewables, LLC's (Avangrid), construction of the New England Wind Project in Federal and State waters offshore Massachusetts, specifically within the Bureau of Ocean Energy Management (BOEM) Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS) Lease Areas (OCS-A 0534 and OCS-A 0561) and the southwest (SW) portion of Lease Area OCS-A 0501 (collectively referred to as the Lease Area), and along an export cable routes to sea-to-shore transition points (collectively, the Project Area), valid for 5 years from the date of effectiveness.

The regulations, which allow for the issuance of a Letter of Authorization to Avangrid for the incidental take of marine mammals during the specified activities within the specified geographical region during the effective dates of the regulations, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, as well as requirements pertaining to the monitoring and reporting of such taking. NMFS refers the reader to the final rule (89 FR 52222, June 21, 2024) for background information concerning the regulations.

The following corrections are being made:

- The regulations contained an inconsistency between the headings for 50 CFR 217.325 wherein the heading in the table of contents did not agree with the text of the section, necessitating relabeling.

- 50 CFR 217.324(c)(15)(xiv) was promulgated twice (*i.e.*, two different measures were both designated as 50 CFR 217.324(c)(15)(xiv), necessitating renumbering).

Correction

Subpart GG [Corrected]

■ 1. In rule document 2024-12085 at 89 FR 52222 in the issue of June 21, 2024, on page 52301, in the first column, in the table of contents for Subpart GG, correct the entry for 50 CFR 217.325 to read as 50 CFR 217.325 Monitoring and reporting requirements.

§ 217.324 [Corrected]

■ 2. On page 52308, in the first column, the second paragraph (c)(15)(xiv) is corrected to read as follows: (xv) LOA Holder must conduct SFV measurements during turbine operations to estimate turbine operational source levels and transmission loss rates, in accordance with a NMFS-approved SFV Plan.

Dated: September 24, 2024.

Kimberly Damon-Randall,
Director, Office of Protected Resources,
National Marine Fisheries Service.

[FR Doc. 2024-22307 Filed 9-30-24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 240924-0251]

RIN 0648-BL45

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Amendment 23 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan

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

ACTION: Final rule.

SUMMARY: This action implements the approved trigger for the in-season closure accountability measure contained in Amendment 23 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan. Amendment 23 was developed by the Mid-Atlantic Fishery Management Council in conjunction with the Atlantic States Marine Fisheries

Commission to address the allocation-related impacts of the significant changes in the distribution of black sea bass that have occurred since the original allocations were implemented. This rule implements a measure that allows a buffer before triggering a closure to the coastwide commercial fishery to address negative economic impacts of coastwide closures on states that have not fully harvested their commercial black sea bass state allocations.

DATES: Effective January 1, 2025.

ADDRESSES: Copies of Amendment 23, including the Environmental Assessment, the Regulatory Impact Review, and the Regulatory Flexibility Analysis prepared in support of this action are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. The supporting documents are also accessible via the internet at: <https://www.mafmc.org/actions/bsb-commercial-allocation>.

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Policy Analyst, (978) 281-9116, emily.keiley@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) cooperatively manage the black sea bass fishery. Amendment 23 considered changes to the management of the commercial black sea bass fishery. Specifically, Amendment 23 considered:

1. Adjusting the commercial black sea bass state allocations;
2. Adding the state allocations and payback provisions to the Federal fishery management plan (FMP) and regulations; and,
3. Changes to the Federal in-season closure regulations for black sea bass.

The Council and the Commission's Black Sea Bass Board (Board) initially approved their respective amendment and addendum during a joint meeting on February 1, 2021. However, in response to a remand from the Commission's Policy Board, the two management bodies revisited their previous recommendations and voted to revise the commercial state quota allocations. A notice of availability (NOA) for the amendment was published in the **Federal Register** on May 4, 2023 (88 FR 28456), with a comment period ending on July 3, 2023. NMFS published a proposed rule in the **Federal Register** on May 15, 2023 (88

FR 30938), with a comment period ending on June 14, 2023.

When a Council approves and then transmits an FMP or amendment to NMFS, NMFS publishes an NOA in the **Federal Register** announcing a 60-day comment period. Within 30 days of the end of the comment period, NMFS must approve, disapprove, or partially approve the plan or amendment based on consistency with law. After considering public comment on the NOA and proposed rule, NMFS partially approved Amendment 23 on August 2, 2023. This final rule implements the approved management measure in Amendment 23 regarding the in-season closure trigger. The details of the development of the measures in Amendment 23 were described in the NOA and proposed rule, and are not repeated here.

Approved Measure

Federal Commercial In-Season Closure Trigger

Previously, the Federal FMP required a commercial coastwide in-season closure for all federally permitted vessels and dealers, regardless of state, once the coastwide quota was projected to be landed. This amendment changes the trigger so that the closure will occur once landings are projected to exceed the coastwide quota plus an additional buffer of up to 5 percent. The Council and Board will agree to the appropriate buffer and make a recommendation to NMFS for the upcoming year through the specifications process. The Council's Monitoring Committee and the Commission's Technical Committee would provide advice on the appropriate buffer based on considerations such as stock status, the quota level, and recent fishery trends.

This change is being implemented to help minimize the negative economic impacts of coastwide closures on states that have not fully harvested their allocations. It is not expected to create an incentive for quota overages because the Commission's Interstate FMP would still require states to close when their state-specific quotas are reached and to pay back quota overages.

Disapproved Measures

Our review of Amendment 23 concluded that the record supporting the Council's recommendations did not support a decision to approve incorporating the state-by-state allocations into the Federal FMP and regulations. By virtue of their reliance on the state allocations, the proposed state payback provisions and the state allocation formula were also

disapproved. Specifically, NMFS concluded that the disapproved provisions of Amendment 23 are not consistent with:

- National Standard 4, which requires fishery conservation and management measures to avoid discrimination between residents of different states and to allocate or assign fishing privileges among various United States fishermen in a manner that is fair and equitable to all such fishermen, reasonably calculated to promote conservation, and carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges;
- National Standard 5, which requires that fishery conservation and management measures, where practicable, consider efficiency in the utilization of fishery resources and not have economic allocations as their sole purpose;
- National Standard 6, which requires fishery conservation and management measures to take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches; and
- National Standard 7, which requires fishery conservation and management measures, where practicable, to minimize costs and avoid unnecessary duplication.

Council Management of State Allocations

Amendment 23 proposed adding the commercial fishery state-by-state quota allocations to the Federal FMP and regulations. This change would have increased the administrative burden and cost of monitoring state quotas and processing state quota transfers for NMFS and the states, without providing a conservation benefit. Adding the allocations to the Federal FMP would have also required a joint action of the Council and Commission to make changes to the state-by-state allocations in the future.

Overages and State Payback Requirements

Under the Commission's Interstate FMP, overages of state-specific quotas are required to be paid back by a state when the coastwide quota has been exceeded. If the state allocations were included in the Federal FMP, the Council and Black Sea Bass Board's preferred alternative was to implement this payback provision in the Federal regulations. NMFS disapproved the incorporation of the state payback provision in the Federal FMP, as it is not necessary given our disapproval of incorporating the state allocations in the

Federal FMP. However, the Commission's use of this payback process is not affected by our decision with regard to the Federal FMP.

Commercial State Allocation Formula

This joint action considered changes to the allocation formula for the distribution of commercial black sea bass quota among the states. The Commission adopted and implemented a new allocation formula in its Interstate FMP, and the Council recommended that NMFS approve and implement the same allocation approach in the Federal FMP. Because NMFS disapproved the state-by-state allocations as a measure in the Federal FMP and regulations, it is not necessary to incorporate an allocation formula in the Federal FMP, so it was also disapproved.

Comments and Responses

NMFS received 14 comments in response to the NOA and the proposed rule. Seven individuals submitted comments that were not germane to the alternatives in the proposed rule; their comments focused on state management measures, individual state allocations, the effects of offshore wind farms, and quotas. One individual commercial fisherman generally opposed the proposed amendment as making things more complicated and worse for fishermen. The comments relevant to the proposed action focused on five general topics regarding the addition of the state commercial allocations to the Federal FMP: The burden on NMFS and the affected state fishery management agencies; the perceived benefits of the action; the National Standards of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act); encumbering the process to adjust allocations; and state representation issues, including addressing climate change.

Administrative Burden

Comment 1: Three commenters suggested that the administrative burden of adding the state allocations would be minor or would be mitigated by using processes developed for other fisheries. One commenter also suggested that this shift would reduce the burden on the Commission to manage state quotas.

Response: While NMFS does manage some species' commercial quotas (e.g., summer flounder) at a state level, adding black sea bass state quota management would require additional resources (time and staff) to conduct all of the necessary tasks. Adding the state commercial allocations in the Federal FMP would require NMFS to monitor

the landings of commercial quotas at a state-by-state level—as opposed to overall coastwide landings—throughout the season, implement state closures when triggered, and manage all quota transfers between states. The increased workload on NMFS staff would reduce agency capacity for other priorities.

This change would also reduce efficiency by requiring the states to request transfers from NMFS in addition to the Commission and wait for NMFS's approval before the transfers are effective. This is not merely a shift in administrative burden. Rather, it increases the administrative burden for both NMFS and the states without eliminating the administrative burden for the Commission. The Commission is unlikely to end its practice of monitoring transfers and posting them on its website, so states would continue to bear the burden of the Commission's state management processes, along with the added requirement to submit transfer requests to NMFS. Comments from the Massachusetts Division of Marine Fisheries (MADMF) and the Rhode Island Department of Environmental Management (RIDEM) also noted these concerns (see *Comment 2*).

Comment 2: Comments from RIDEM and MADMF stated that including the state commercial black sea bass allocation in the Federal FMP would increase the administrative burden for NMFS and create additional complications for the states. MADMF noted that state and Federal closures for species such as bluefish and summer flounder have not always aligned. MADMF states that “. . . Landings data and projections often differ between state and Federal monitoring, as does the time requirement for [MADMF] and NMFS to close a fishery. [MADMF's] frequent and direct outreach to dealers as quotas near full utilization generally allows for more accurate landings tallies and projections, which [MADMF] can respond to nimbly. [MADMF's] ability to close a fishery within 24 hours is not matched by NMFS.” These differences can result in different closure dates and different impacts to state and Federal permit holders.

Response: NMFS agrees with these comments and has disapproved the addition of the commercial state black sea bass allocations to the Federal FMP.

Comment 3: One commenter highlighted that the restrictions on late-season transfers due to the Federal rulemaking process would have minimal impacts and would not justify disapproving the addition of the state allocations to the Federal FMP.

Response: The Commission currently allows transfers at any time up to 45 days after the last day of the fishing season. If NMFS were to manage transfers under the same process currently used for summer flounder and bluefish, transfers in the last 2 weeks of the year would only be allowed for unforeseeable circumstances such as vessel failure or bad weather. Post-season transfers would not be allowed. NMFS does not disagree that the impact of this particular restriction would be relatively small. However, the magnitude of this potential impact does not change our determination that adding the state allocations to the Federal FMP is inconsistent with the National Standards (see Disapproved Measures). This decision was based on a holistic review of the amendment and its consistency with the Magnuson-Stevens Act. It did not hinge on the impact of post-season transfer limitations.

Perceived Benefits

Comment 4: Four commenters disagreed with our statement that there is no clear benefit from adding the state allocations to the Federal FMP, arguing that this change provides a greater level of Federal oversight, protection, and accountability. They stated that any changes to the allocations would be made through the Council process, which is thorough, transparent, and bound by the Magnuson-Stevens Act, National Environmental Policy Act (NEPA), and other applicable laws. According to these comments, the Commission process does not always provide the same safeguards.

Response: The Council and Commission have successfully co-managed black sea bass quotas through a two-tiered system since 2003, with the state quotas managed through the Commission's Interstate FMP and the overall coastwide quota managed by the Council and NMFS. While the Interstate FMP is not bound by the Magnuson-Stevens Act and the Federal rulemaking process, the Commission process is not without its own legal requirements and safeguards. The Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act) requires the Commission to manage fisheries throughout their range based on the best available science and with adequate opportunity for public participation and to establish adequate standards and procedures to do so. In compliance with the Atlantic Coastal Act, the Commission process is bound by the “Atlantic States Marine Fisheries Commission Compact and Rules and Regulations” and “Interstate Fishery

Management Program Charter.” Under the Charter, the Commission's management must meet conservation and equity requirements. When states believe a Commission decision has not met these requirements, the Commission provides a formal appeals process.

Further, the Council manages the Federal black sea bass fishery with all of the safeguards and requirements of the Magnuson-Stevens Act, NEPA, and other applicable laws. This includes oversight of the various catch limits designed to prevent overfishing, which are established through a joint process with the Commission. The coastwide commercial quota addresses the conservation requirements of the Magnuson-Stevens Act, and when state quota overages could result in a coastwide overage, NMFS has the authority to close the entire fishery to prevent overfishing. Duplication of the state commercial allocations in the Federal FMP will not further any conservation benefit because the allocations are already in place and successfully managed through the Interstate FMP and the Federal regulations and specifications process are sufficient to address coastwide overages.

Comment 5: One commenter argued, “If this management plan remained within the [Commission], there would be no ability for any New York commercial fisherman to contest any portion of it by judicial review, because it is not considered an agency of the Federal government.” The commenter believed including the state commercial allocations in the Federal FMP would allow better redress.

Response: While the Commission is not a Federal agency, it provides a venue for deciding issues of interstate fishery management with equal representation of all interested states. As noted in response to *Comment 4*, the Commission is guided by the “Atlantic States Marine Fisheries Commission Compact and Rules and Regulations” and “Interstate Fishery Management Program Charter.” States can appeal Commission decisions through a formal appeals process when the decision is inconsistent with the rules and regulations, the Charter, the Commission's other guiding documents, or the goals and objectives of the Interstate FMP; is based on insufficient technical information; or results in unforeseen impacts. The appeals process may result in corrective action, providing a process for redress for Commission decisions. The efficacy of this appeals process is demonstrated by New York's successful appeal of the

Commission's changes to the black sea bass state allocations, which resulted in an increase to New York's proportion of the black sea bass commercial quota. In addition, interested parties still have the option to contest Federal management measures developed through the joint management process described in response to *Comment 4* pursuant to the Magnuson-Stevens Act's judicial review provisions.

Comment 6: One commenter stated that adding the state commercial allocations to the Federal FMP would provide the benefit of bringing the allocations in line with "most other aspects of the management program."

Response: The Council and the Commission have successfully co-managed the black sea bass fishery for decades, as described in response to *Comment 4*.

Most aspects of the management program have implications for the coastwide fishery and are addressed in the Federal FMP. However, subdividing the coastwide commercial quota into state-specific allocations directly affects fishing opportunities at the state level and is an issue of interstate fishery management. The Commission provides a venue for interstate management decision-making with representation from all of the Atlantic states. States may join the management boards for any species in which they have an interest. Conversely, the Magnuson-Stevens Act determines state representation on the Council. As a result, the limited representation on the Council poses a challenge when making allocation decisions that directly affect the states. Continued changes in the stock distribution toward states that are not represented on the Council would exacerbate these challenges. Adding the allocations to the Federal FMP to make them consistent with other co-managed elements of the FMP would fail to recognize the unique, state-oriented nature of allocation decisions and the Commission's lead role in interstate fisheries management and would not further any conservation objective.

Future Allocation Decisions and the National Standard Requirements

Comment 7: Two commenters contended that the NOA speculates "about future actions involving 'potentially inadequate consideration of northern states' fisheries'" without evidence in the administrative record to support such speculation, particularly "without providing any examples of actual present-day outcomes harming any particular state." These commenters go on to note that future allocations would need to meet the requirements of

the Magnuson-Stevens Act, including the requirement under National Standards 4 and 6 (described under Disapproved Measures) and National Standard 8—that measures provide for the sustained participation of all fishing communities. The second of these commenters argued that the current commercial state allocations were agreed on by the Council and Board and reflect recent biomass proportions. The commenter did not understand how the same decision-making process could potentially result in unfair outcomes in the future because the Council and Board work together to achieve consensus on joint actions and differing decisions between the two bodies are rare.

Response: The commenters are correct that NMFS cannot approve any changes to the Federal FMP that do not meet the requirements of the National Standards. While NMFS has concerns that adding the state allocations to the Federal FMP would result in an inequitable allocation process because not all interested states are represented on the Council, NMFS did not disapprove the changes based on future decisions being inconsistent with the National Standards. NMFS disapproved the addition of the state allocations in the Federal FMP because that action lacked conservation benefits, reduced management efficiency, lacked adaptability to variations and contingencies, increased costs, and unnecessarily duplicated management measures, which is inconsistent with National Standards 4, 5, 6, and 7.

State Representation, Fairness, and Equity

Comment 8: MADMF agreed with NMFS that equity of representation is vitally important to the particular issue of state-by-state allocations. Its comment provided additional context and an example of how the vote to add the state allocations to the Federal FMP resulted in unequal representation among the states. After an initial motion was made and seconded by participants of both the Council and Board, a substitute motion not to add the state allocations to the Federal FMP was made and seconded by northern-state and NMFS representatives. The Council voted first, and the majority of Council members voted against the substitute motion. Without the Commission membership from New Hampshire through North Carolina being able to affirm their position, the substitute motion failed. The main motion received a passing vote from the Commission on a slim margin after the substitute motion failed in the Council vote and another option

was not available. The Council and Commission voted along a geographical divide, with the northern states voting against the allocations in the Federal FMP. This illustrates that the limited representation on the Council by all states with an interest in the fishery poses a challenge when making state allocation decisions.

The Commission includes representation from all Atlantic states and provides an equitable process when making changes to commercial state allocations. MADMF asserted that the Commission, where every coastal state with an interest in a species is represented, is the more appropriate venue for determining state allocations.

Response: NMFS agrees that limited representation by all states in the Council poses a challenge in state allocation decisions and that the Commission, which includes representations from all Atlantic states, provides a more equitable process in commercial state allocations.

Comment 9: Two commenters asserted that the joint decision-making process is fair and equitable and that the states on the Council do not have a disproportionate role in the decision-making process. The commenters disagreed with the assertion that the lack of voting representation from the New England states on the Council creates "inequity in representation" in the joint decision-making process. These commenters believed that the special voting procedures and the broader representation on the Board make up for the lack of northern states' representation on the Council.

Response: A different comment letter from MADMF disputed these comments, as summarized in *Comment 8*. As one of the states in question and with authority on the matter, MADMF argued that the special voting procedures are not equivalent to full representation and that adding the state allocations to the Federal FMP would not result in an equitable allocation process. NMFS agrees with MADMF.

Comment 10: One commenter argued against concerns that the northern states' lack of representation on the Council has implications regarding the National Standard requirements and equity, stating that the Mid-Atlantic states lack representation on the New England Fishery Management Council and are regulated on groundfish, whiting, and scallops without representation. The commenter asserted that joint decision-making between the Council and the Commission, which represents all coastal states, has worked for other fisheries.

Response: NMFS agrees that co-management works here—the Council and the Commission successfully co-manage the black sea bass fishery. As previously described, the Council and Commission specifications processes establish annual coastwide catch limits and the Commission manages the commercial state allocations through the Interstate FMP because the state allocations have a direct impact on fishing opportunities at the state level. This co-management process provides equitable representation and greater flexibility because it does not require Council action in addition to Commission action to change the state allocations. This is particularly relevant in the black sea bass fishery, as it is foreseeable that black sea bass could become a commercially viable species as far north as Maine due to the ongoing and expected changes in the distribution of the black sea bass stock from the effects of climate change. The successful management of other species using different processes does not negate these facts nor the history of successful co-management of the black sea bass fishery. Furthermore, the fisheries referenced in the comment—groundfish, whiting, and scallops—are not managed with state-by-state quota allocations, but with a coastwide quota. This is consistent with the Federal management of the black sea bass fishery.

Comment 11: Three commenters argued that the Council should have a more substantive role in the allocation-setting process because the majority of commercial black sea bass landings come from Federal waters.

Response: The Council plays a significant role in black sea bass management, with coastwide management measures set in the Federal FMP through the Council process, as previously described. State quota allocations have a direct impact on fishing opportunities at the state level. Given the lack of northern state representation on the Council, the commercial quota state allocations are appropriately managed through the Commission's Interstate FMP. While adding the state allocations to the Federal FMP would not eliminate the Commission's role in the process, a comment letter from MADMF provides evidence that the special voting procedures used during joint decision-making do not necessarily result in equal representation of all states with commercial quota allocations, as described in *Comment 8*.

In addition, adding the state commercial quota allocations to the Federal FMP would then require NMFS

to manage the state allocations, which would increase costs, reduce efficiency, and add complexity, as described throughout the comments and responses. The Commission's equal representation of all impacted states and the increased efficiency, timeliness, and reduced administrative burden for in-season monitoring activities support maintaining the Commission's primary role in this aspect of black sea bass management, with the Council maintaining the lead role in coastwide management.

Climate Impacts

Comment 12: One commenter contended that climate concerns are not unique to the black sea bass fishery and the Council manages other fisheries with changing distributions and geographic ranges beyond its member states. It noted that the Council is required to manage stocks as a unit throughout their range to the extent practicable under National Standard 3. The commenter was not aware of any provision under the Magnuson-Stevens Act or other applicable laws that would preclude the incorporation of state allocations in the Council FMP.

Response: While climate impacts are a concern for a number of fisheries, this action considers the management of black sea bass. Under the requirements of National Standard 3, the Council is required to manage the black sea bass stock as a unit throughout its range and does so when it sets coastwide management measures under the Federal FMP. These coastwide limits, including the commercial quota, satisfy the requirements of National Standard 3. However, inconsistencies with the requirements under National Standards 4, 5, 6, and 7 do preclude the addition of the state allocations to the Federal FMP. These inconsistencies are described under Disapproved Measures and throughout the comments and responses in this document.

Comment 13: One commenter claimed that formalizing the Council's role in the state commercial allocation-setting process would increase the Council's adaptive capacity and ability to respond to changes in the black sea bass fishery efficiently, thus supporting the goal of building resilient, climate-ready fisheries.

Response: Amendment 23 does not identify how duplicating the state commercial allocations in the Federal FMP and regulations and requiring the Council and Federal rulemaking processes to change the state commercial allocations would increase adaptive capacity, efficiency, or responsiveness in black sea bass

management. According to the National Standard Guidelines at § 600.335(d), unpredictable events, such as unexpected climatic conditions or resource surges or failures, are best handled by establishing a flexible management regime that contains a range of management options through which it is possible to act quickly without amending the FMP or even its regulations. The current system of managing state commercial allocations through the Commission's Interstate FMP provides an efficient, responsive, and equitable process that does not require amending the FMP or regulations.

Continued changes in the stock distribution would exacerbate the already challenging allocation deliberations of the Council if the state allocations were added to the Federal FMP. Rapid changes and increased uncertainties in stock distribution, particularly in response to the effects of climate change, highlight the need for a flexible and responsive management system. Because the proposed measure to incorporate state-by-state quota allocations into the Federal FMP and regulations would create a less flexible and less responsive management system than the status quo, NMFS finds this aspect of Amendment 23 to be inconsistent with National Standard 6.

Comment 14: Three commenters agreed with NMFS that climate change and the shifting distribution of the stock exacerbate concerns regarding unequal representation. MADMF stated that every state with an interest in a species is represented on the Commission and moving the state commercial allocation to the Council FMP would uproot “the northern states’ equal footing inherent” in the Commission process. It went on to say, “The mid-Atlantic states feel no similar repercussions from maintaining the allocations solely in the interstate plan; they are well represented by their delegates to the [Commission]. As the Council letter points out, this is the first time the allocations have been revised in the [Commission] plan since their original implementation in 2003, demonstrating that the [Commission] member states do not take the matter lightly. While distinct, the [Commission] processes are equally transparent, robust, and deliberative as the Council's.”

MADMF also noted that regional climate change scenario planning efforts, supported by the Council, have included consideration of more joint management and greater flexibility as stocks shift. Another commenter echoed MADMF's concerns regarding equity and adaptability in the face of shifting

stocks and suggested that the allocations should be managed solely by the Commission or jointly by the Mid-Atlantic and New England Councils.

Response: NMFS agrees that the Commission should retain management of the state commercial allocations to ensure an equitable process and have disapproved the addition of the commercial state black sea bass allocations into the Federal FMP.

General Comments

Comment 15: MADMF fully supported NMFS' rationale, as provided in 88 FR 28456 (May 4, 2023), for disapproving the addition of the commercial black sea bass state allocations into the Federal FMP.

Response: NMFS agrees and has disapproved the addition of the commercial state black sea bass allocations into the Federal FMP.

Comment 16: One commenter stated that NMFS' proposal will complicate things for fishermen and black sea bass issues should have been addressed two decades ago.

Response: NMFS agrees that duplicating the state allocations in the Federal FMP would create a more complicated process for black sea bass fishermen and have disapproved this measure.

Changes From the Proposed Rule

The proposed rule included all of the Council's recommended changes to the FMP and proposed implementing regulations deemed necessary by the Council. As described above, NMFS has determined that the adjustment to the process for setting the state allocations and the addition of the state allocations and payback provisions to the Council's (Federal) FMP were inconsistent with the National Standards and disapproved those measures. The final rule only implements the proposed change to the commercial in-season closure trigger, and removes the disapproved measures that were in the proposed rule's regulatory text.

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.

This final 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 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.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 24, 2024.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS amends 50 CFR part 648 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 § 648.142, revise paragraph (a) introductory text and add paragraph (a)(15) to read as follows:

§ 648.142 Black sea bass specifications.

(a) *Specifications.* Commercial quota, recreational landing limit, research set-aside, and other specification measures. The Monitoring Committee will recommend to the MAFMC and the ASMFC, through the specification process, for use in conjunction with the ACL and ACT, sector-specific research set-asides, estimates of the sector-related discards, a recreational harvest limit, a commercial quota, along with other measures, as needed, that are projected to prevent overages of the applicable specified limits or targets for each sector as prescribed in the FMP. The following measures are to be considered by the Monitoring Committee:

* * * * *

(15) A commercial quota overage buffer, of up to 5 percent, that would be used to determine when a Federal in-season closure would be triggered.

* * * * *

■ 3. In § 648.143, revise paragraph (a) introductory text to read as follows:

§ 648.143 Black sea bass accountability measures.

(a) *Commercial sector fishery closure.* The Regional Administrator will monitor the harvest of commercial quota based on dealer reports, state data, and other available information. All black sea bass landed for sale in the states from North Carolina through Maine by a vessel with a moratorium permit issued under § 648.4(a)(7) shall be applied against the commercial annual coastwide quota, regardless of where the black sea bass were harvested. All black sea bass harvested north of 35°15.3' N. lat., and landed for sale in the states from North Carolina through Maine by any vessel without a moratorium permit and fishing exclusively in state waters, will be counted against the quota by the state in which it is landed, pursuant to the FMP for the black sea bass fishery adopted by the ASMFC. The Regional Administrator will determine the date on which the annual coastwide quota, plus a buffer up to 5 percent as specified in the annual specifications, is projected to be harvested; and beginning on that date and through the end of the calendar year, the EEZ north of 35°15.3' N lat. will be closed to the possession of black sea bass. The Regional Administrator will publish a notification in the **Federal Register** advising that, upon and after that date, no vessel may possess black sea bass in the EEZ north of 35°15.3' N lat. during a closure, nor may vessels issued a moratorium permit land black sea bass during the closure. Individual states will have the responsibility to close their ports to commercial landings of black sea bass during a closure, pursuant to the FMP for the black sea bass fishery adopted by the ASMFC.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 240304-0068; RTID 0648-XE302]

Fisheries of the Exclusive Economic Zone off Alaska; Several Groundfish Species in the Bering Sea and Aleutian Islands Management Area

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