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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648-BJ18

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Amendment 21 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: Notice of Availability of proposed fishery management plan amendment; request for comments.

SUMMARY: The Mid-Atlantic Fishery Management Council has submitted Amendment 21 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan to NMFS.

Amendment 21 proposes revisions to the summer flounder commercial state quota allocation percentages and the fishery management plan goals and objectives. Amendment 21 is intended to increase equity in state allocations when annual coastwide commercial quotas are at or above historical averages, while recognizing the economic reliance coastal communities have on the state allocation percentages currently in place.

DATES: Public comments must be received on or before [*insert date 60 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-

2020-0107, by the following method:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal.
 1. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0107*;
 2. Click the “Comment Now!” icon and complete the required fields; and
 3. Enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by us. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Copies of Amendment 21, including the Environmental Impact Statement, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis (EIS/RIR/IRFA) 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: *http://www.mafmc.org*.

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

SUPPLEMENTARY INFORMATION:

Background

The summer flounder fishery is managed cooperatively under the provisions of the

Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) developed by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission, in consultation with the New England Fishery Management Council. The management unit specified in the FMP includes summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canada border. States manage summer flounder within 3 nautical miles (4.83 km) of their coasts, under the Commission's plan for summer flounder. The Federal summer flounder regulations govern fishing in Federal waters of the Exclusive Economic Zone (3 to 200 nautical miles, 4.83 km to 160.93 km offshore), as well as vessels possessing a summer flounder moratorium permit, regardless of where they fish.

On September 16, 2014 (79 FR 55432), the Council published a notice of intent (NOI) to prepare an EIS for Amendment 21 to consider, in coordination with the Commission: (1) Performing a comprehensive review of all aspects of the FMP related to summer flounder; (2) updating the FMP goals and objectives for summer flounder management; and (3) modifying management strategies and measures as necessary to achieve those goals and objectives. The Council and Commission held scoping meetings during September and October of 2014 to solicit comments from the public regarding the range of commercial and recreational summer flounder management issues should be considered in the amendment.

On March 29, 2018 (83 FR 13478), the Council published a supplemental NOI announcing that the scope of the amendment would be narrowed to include only commercial summer flounder management considerations. Due to ongoing revisions to the recreational data by the Marine Recreational Information Program, the Council and Commission chose to delay development of any issues that would rely heavily on recreational data. This includes quota

allocation between the commercial and recreational sectors as well as recreational management measures and strategies. The supplemental NOI identified that the commercial fishery-focused amendment would consider revisions to:

- Current qualification criteria for Federal moratorium permit holders;
- Current state-by-state allocation of commercial quota;
- List of frameworkable items in the FMP; and
- FMP goals and objectives for summer flounder.

On August 17, 2018 (83 FR 41072), the Environmental Protection Agency announced the public comment period for the Amendment 21 draft environmental impact statement (DEIS).

The public comment period extended until October 12, 2018. During that time, the Council and Commission held public hearings on the DEIS in Old Lyme, Connecticut; Washington, North Carolina; Dover, Delaware; Newport News, Virginia; Buzzards Bay, Massachusetts; Narragansett, Rhode Island; Toms River, New Jersey; Berlin, Maryland; Stony Brook, New York; and via webinar.

The Council adopted Amendment 21 on March 6, 2019, and submitted the amendment to us for review on March 17, 2020.

Proposed State-by-State Allocation Approach

Amendment 21 would modify the state-by-state commercial quota allocations when the coastwide quota exceeds 9.55 million lb (4,332 mt). When the coastwide quota is 9.55 million lb (4,332 mt) or less the quota would be distributed according to the current allocations. In years when the coastwide quota exceeds 9.55 million lb (4,332 mt) any additional quota, beyond this trigger, would be distributed in equal shares to all states except Maine, Delaware, and New Hampshire, which would split 1 percent of the additional quota.

Table 1 -- Proposed state-by-state allocations

State	Allocation of baseline quota \leq 9.55 mil lb (percent)	Allocation of <u>additional</u> quota beyond 9.55 mil lb (percent)
ME	0.04756	0.333
NH	0.00046	0.333
MA	6.82046	12.375
RI	15.68298	12.375
CT	2.25708	12.375
NY	7.64699	12.375
NJ	16.72499	12.375
DE	0.01779	0.333
MD	2.03910	12.375
VA	21.31676	12.375
NC	27.44584	12.375
Total	100	100

Revised Summer Flounder FMP Goals and Objectives

The original FMP objectives were adopted via Amendment 2 to the Summer Flounder FMP in 1993 and have remained unchanged since that time. Amendment 21 revises the FMP goals and objectives. While the current FMP contains only management objectives, the proposed revisions contain three overarching goals linked to more specific objectives. The revised goals include: (1) Ensuring sustainability, of both the summer flounder stock and fishery; (2) increasing the effectiveness of management measures, through partnerships, enforcement, and data collection; and, (3) optimization of the social and economic benefits from the summer flounder stock. Additional information on these changes can be found in the FEIS.

Public Comment Instructions

The Magnuson-Stevens Fishery Conservation and Management Act allows us to approve, partially approve, or disapprove measures recommended by the Council in an amendment based on whether the measures are consistent with the fishery management plan, plan amendment, the

Magnuson-Stevens Act and its National Standards, and other applicable law. The Council develops policy for its fisheries and we defer to the Council on policy decisions unless those policies are inconsistent with the Magnuson-Stevens Act or other applicable law. As such, we are seeking comment on whether measures in Amendment 21 are consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law. Public comments on Amendment 21 and its incorporated documents may be submitted through the end of the comment period stated in this notification of availability.

A proposed rule to implement the amendment, including draft regulatory text, will also be published in the **Federal Register** for public comment. Public comments on the proposed rule received before the end of the comment period provided in this notification of availability will be considered in the approval/disapproval decision on the amendment. All comments received by [*insert date 60 days after date of publication in the **Federal Register***], whether specifically directed to Amendment 21 or the proposed rule for this amendment, will be considered in the approval/disapproval decision on the Amendment 21. Comments received after that date will not be considered in the decision to approve or disapprove the amendment. To be considered, comments must be received by close of business on the last day of the comment period.

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

Dated: July 24, 2020.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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