DATES: A public hearing will be held from 7:30 p.m. to 9:00 p.m. on April 20, 1999 in San Antonio, Texas. Information displays and an opportunity to ask questions will be available from 5:30 to 7:00 p.m. on April 20, 1999. The extended comment period closes May 31, 1999.

ADDRESSES: The public hearing and information displays will be held at the Lee High School cafeteria located at 1400 Jackson Keller Road in San Antonio, Texas. Written comments and materials concerning the proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services, 10711 Burnet Road, Suite 200, Austin, Texas 78758–4460. Comments and materials received will be available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Alisa Shull, U.S. Fish and Wildlife Service (see **ADDRESSES** section) (telephone 512–490–0057: facsimile 512–490–0974).

SUPPLEMENTARY INFORMATION:

Background

These nine invertebrates are obligate cave-dwelling species (troglobites) of local distribution in caves in northern Bexar County, Texas. The life habits of the species are not well known. They are probably predaceous on the eggs, larvae, or adults of other cave invertebrates.

Threats to these species and their habitats include destruction and/or deterioration of habitat by commercial, residential, and road construction; filling of caves, and loss of permeable cover; potential contamination from such things as septic effluent, sewer leaks, run-off, and pesticides; predation by and competition with non-native fire ants; and vandalism.

In 1994 we began discussions with a coalition of landowners, developers, and other interested parties about creating a conservation agreement that might preclude the need for listing these species. We have been working since then with interested parties to develop a conservation strategy and agreement. However, all the details necessary to accomplish this goal have not yet been agreed to. These issues relate primarily to determining what is needed for species conservation, responsibility and commitment for implementation and funding, and the amount of time required to implement the conservation measures. If these issues are resolved before a final listing decision is made, the final listing decision may differ from that proposed for some or all of these species.

Public hearings are designed to gather relevant information the public may have that we should consider in determining the status of and threats to these species. During the hearing the Service will present information about the proposed action of listing the nine Bexar County invertebrates as endangered. We invite the public to submit information and comments either at the hearing on April 20, 1999, or in writing. We request that comments be as specific as possible.

This hearing will be held from 7:30 to 9:00 pm. In the event there are a large number of people who wish to comment, the time allotted for oral statements may have to be limited. Persons wishing to comment at the hearing are encouraged to provide a written copy of their statement at the start of the hearing. There is no limit on the length of written comments. Written comments may also be submitted at any time during the open comment period and are given equal consideration to oral comments. Written comments should be sent to: Supervisor, USFWS, 10711 Burnet Road, Suite 200, Austin, Texas 78758, and must be received by May 31, 1999.

From 5:30 to 7:00 p.m., prior to the public hearing, several information booths will be set up at the hearing site (see **ADDRESSES**) to allow the public to gather information and ask questions. The best time to ask questions or discuss issues will be from 5:30 to 7:00 p.m. at the information displays. Although the Service will present information at the beginning of the hearing about the proposed action of listing the nine Bexar County invertebrates as endangered, the format of the hearing will not allow for questions and answers or two-way dialogue during the hearing.

Additional information that would be particularly useful to the Service in making a final listing determination includes any additional biological data; the location of any additional caves containing these species or caves where searches have been conducted and the species not found; areas planned for development or other activities that might affect any of the nine invertebrates; and existing local, state, or Federal regulations that provide protection for these species and their habitat.

Author: The primary author of this notice is Christina Longacre (see **ADDRESSES** section) (telephone 512/490–0057: facsimile 512/490–0974).

Authority

The authority for this action is the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 29, 1999.

Nancy M. Kaufman,

Regional Director, Fish and Wildlife Service.

[FR Doc. 99–8678 Filed 4–5–99; 11:55 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990301058–9058–01; I.D. 011499B]

RIN 0648–AL56

Fisheries of the Northeastern United States; Amendment 12 to the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Amendment 8 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries; and Amendment 12 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 12 to the Fishery Management Plan (FMP) for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Amendment 8 to the FMP for the Atlantic Mackerel, Squid, and Butterfish Fisheries; and Amendment 12 to the FMP for the Atlantic Surf Clam and Ocean Quahog Fisheries. This proposed rule would implement framework provisions for amending management measures for these fisheries, restrict the size of domestic harvesting vessels permitted in the Atlantic mackerel fishery without restricting the size of processing vessels, and implement an operator permit requirement for the surf clam and ocean quahog fisheries. These amendments are intended to meet the requirements of the Sustainable Fisheries Act of October 1996 (SFA).

DATES: Comments must be received on or before May 24, 1999.

ADDRESSES: Comments on this proposed rule should be sent to Jon C. Rittgers, Acting Regional Administrator,

Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on the Mid-Atlantic SFA Amendments.''

Comments regarding burden-hour estimates for collection-of-information requirements contained in this proposed rule should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Copies of the proposed amendments, the environmental assessments (EA), the regulatory impact reviews, and other supporting documents are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New Street, Dover, DE 19904-6790.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, 978–281–9221.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission, in consultation with the New England and South Atlantic Fishery Management Councils, prepared proposed Amendment 12 to the Summer Flounder, Scup, and Black Sea Bass FMP. The Council, in consultation with the New England and South Atlantic Fishery Management Councils, prepared proposed Amendment 8 to the Atlantic Mackerel, Squid, and Butterfish FMP. The Council, in consultation with the New England Fishery Management Council, prepared proposed Amendment 12 to the Atlantic Surf Clam and Ocean Quahog FMP.

NMFS published a notice of availability for these amendments in the **Federal Register** on January 27, 1999 (64 FR 4065), soliciting public comments on the three amendments through March 29, 1999. All comments received by the end of that comment period on the proposed amendments, whether specifically directed to any of the amendments or to this proposed rule, will be considered in the approval/disapproval decision on the amendments. Public comments must be received (not postmarked or otherwise transmitted, including faxes) by the close of business on March 29, 1999, to be considered in the approval/disapproval decision. Comments received after that date, but before the end of the comment period for this proposed rule May 24, 1999, will not be considered in the approval/disapproval decision of the amendments, but will be considered in the decision on issuance of the final rule.

Overfishing Definition

All three of the FMP amendments would revise the overfishing definitions to bring them into accord with the new national standards of the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (Magnuson-Stevens Act), as amended by the SFA. Under the revised standards, overfishing definitions must be composed of two reference points, one for fishing mortality and one for stock biomass. ''Overfishing'' occurs whenever a stock or stock complex is subjected to a rate or level of F that jeopardizes the capacity of a stock or stock complex to produce maximum sustainable yield (MSY) on a continuing basis. ''Overfished'' describes a stock or stock complex with a sufficiently low biomass to require a change in management practices to achieve the appropriate level or rate of stock rebuilding (to B_{target}).

Only one change to the regulatory text is necessary because of the new overfishing definitions. Amendment 8 to the Atlantic Mackerel, Squid, and Butterfish FMP (Amendment 8) proposes to revise the maximum fishing mortality rate for *Illex* squid to F_{msy} to better reflect the goal of achieving MSY on a continuing basis. The other proposed FMP amendments do not require changes to the regulatory text. Comments on these FMP amendments were solicited in the Notice of Availability (64 FR 4065).

Framework Adjustment Process

The proposed amendments would add a framework adjustment process for each of the fisheries, in addition to the annual specification setting process. This provision would allow the Council to modify or add management measures through a streamlined public review process. As such, management measures that have been identified in the plan could be implemented or adjusted at any time during the year. The following management measures could be implemented or modified through framework adjustment procedures for Amendments 12 and 8 (summer flounder, scup, black sea bass, Atlantic mackerel, *Loligo* and *Illex* squids, and butterfish fisheries) unless otherwise noted: Minimum and maximum fish sizes; gear restrictions; permitting restrictions; recreational possession and harvest limits and seasons; closed areas; commercial seasons and trip limits; commercial quota system, including commercial quota allocation procedure and possible quota set asides to mitigate bycatch; restrictions on vessel size in length overall and gross registered tons (LOA and GRT) or shaft horsepower; operator permits (summer flounder, scup, and black sea bass only); regional management and inseason adjustments to specifications (Atlantic mackerel, squid, and butterfish only) and any other management measures currently included in the FMP.

In addition, the following provisions could be implemented for the fisheries managed under all three FMPs, unless otherwise noted: Set aside quotas for scientific research; description and identification of essential fish habitat (EFH) and habitat areas of particular concern; management measures for fishing gear that impact EFH; overfishing definition thresholds and targets; vessel tracking system; and optimum yield range (surf clam and ocean quahogs only).

Other Proposed Measures

This proposed rule would restrict the size of domestic harvesting vessels, but not processing vessels, permitted in the Atlantic mackerel fishery. Any vessel that exceeds any one of the following: 165 ft (50.3 m) in LOA, or 750 GRT, or a shaft horsepower (shp) of 3,000, would be ineligible for a permit to harvest Atlantic mackerel. NMFS believes this proposed language describes clearly the intended effect of the measure, which is to exclude all vessels meeting any one of the three criteria.

NMFS is concerned that the wording of the regulation, as submitted by the Council, would not achieve the Council's intentions by allowing vessels to become eligible for a harvesting permit under various combinations of length, tonnage and horsepower. Based on the record of discussions at public Council meetings, this proposed rule would interpret the Council's action to mean adoption of the most restrictive interpretation of the criteria. NMFS is seeking comment on this interpretation which would prohibit harvesting of Atlantic mackerel by all vessels meeting any one of the preceding criteria. NMFS is also seeking comment on the overall merits of such a prohibition on harvesting vessels.

The Council is concerned about rapid over-capitalization of the mackerel fleet by the entry of large vessels with significant harvesting potential. The Council's analysis indicates that the current fleet of vessels in the Northeast has more than enough fishing harvesting capacity to take the sustainable harvest of Atlantic mackerel. This analysis can be reviewed in its entirety by obtaining a copy of Amendment 8 to the Atlantic

Mackerel, Squid, and Butterfish FMP (see **ADDRESSES**).

Because Amendment 8 proposes to prohibit only vessels that exceed the above specified limits from harvesting Atlantic mackerel and not from processing it, NMFS, to be consistent with the intent of the Council, proposes to modify the vessel and dealer permitting provisions to provide for processing by such vessels. Specifically, the vessel permit requirement would be revised to make vessels exceeding the size limits specified ineligible for a permit to harvest Atlantic mackerel. A new dealer permit category would be established to allow a vessel of any size to receive, possess and process Atlantic mackerel at sea, as well as to off-load the product. Such a vessel would be required to obtain an at-sea processing permit and comply with the dealer reporting requirements.

This proposed rule would implement, through Amendment 12 to the FMP for the Atlantic Surf Clam and Ocean Quahog Fisheries, the operator permit requirement for individuals fishing for surf clams or ocean quahogs. An operator is the master, captain, or other individual aboard a fishing vessel who is in charge of that vessel's operations. Under the proposed rule, any vessel fishing commercially for surf clams or ocean quahogs in the EEZ would have to have on board at least one operator who holds an operator permit issued pursuant to this FMP or any other FMP prepared by the Mid-Atlantic or the New England Fishery Management Councils. The operator may be held accountable for violations of the fishing regulations and may be subject to an operator permit sanction for violations. During the permit sanction period, the individual operator could not be aboard any federally permitted fishing vessel or any vessel subject to Federal fishing regulations while the vessel is at sea or engaged in off-loading.

Technical Changes

Effective February 1, 1991, NMFS closed the fishing grounds located east of 69° W. longitude, and south of 42°20' N. latitude to surf clam and ocean quahog harvesting (56 FR 3980, February 1, 1991). That area was closed to fishing for surf clams and ocean quahogs due to high concentrations of the organism that causes paralytic shellfish poisoning (PSP) currently found in these species at that location. The original notification specified that the area would remain closed until the Secretary of Commerce determines that the adverse environmental conditions caused by the PSP toxin are no longer present. Since that closure is still in effect, NMFS proposes to codify the closure so that new entrants into the fishery, and those who may not have been actively participating in the fishery since 1991, can be notified more easily of the closure and subsequent re-opening, should it occur.

Additionally, NMFS proposes to suspend the sea turtle conservation regulations codified at § 648.106. The measures implemented in Amendment 2 to the Summer Flounder, Scup, and Black Sea Bass FMP (57 FR 57358, December 4, 1992) were intended to serve a temporary function, pending implementation of permanent measures under the authority of the Endangered Species Act (ESA). Those regulations are now in place under 50 CFR parts 217 and 227. Regulations issued under the ESA supersede the regulations issued under part 648, which are proposed to be replaced with a cross reference to parts 217 and 227.

Classification

At this time, NMFS has not determined that the amendments that this proposed rule would implement are consistent with the national standards of the Magnuson-Stevens Act and other applicable law. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared EAs for each of the amendments that discuss the impacts on the environment. Copies of the environmental assessments are available from the Council (see **ADDRESSES**).

This proposed rule has been determined to be significant for purposes of E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

Some of the provisions implemented by this rule, i.e., the revised overfishing definitions and the framework process, are not expected to impact participants in any of these fisheries. Consequently, these provisions would not change historical production or normal business practices associated with the fishery. For the operator permit provision, approximately 21 of the 84 vessels that landed surf clams or ocean quahogs in 1997 (25 percent) are operated by individuals who would be required to obtain that permit. These individuals would not already have a permit issued, as required by another fishery. Compliance costs associated with this requirement are estimated at $22 ($15 form preparation, plus $7 for passport photographs), to be incurred every 3 years only, since the permit is valid for that time. Therefore, it is realistic to assume that this cost would equate to but a small percentage of the annualized costs of the surf clam and quahog industry. The vessel size restriction is estimated to impact 1 of approximately 1,000 vessels that represent potential new entry into the directed mackerel fishery. As a result, a regulatory flexibility analysis was not prepared. Any changes in management provisions that arise as a result of the measures enacted by these amendments would be reviewed for economic impacts when submitted.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act. These collection-of-information requirements have been submitted to OMB for approval. The requirements and their estimated response times are: Operator permits at 1 hour per response, at-sea processor permits at 5 minutes per response, and weekly reporting for at-sea processors at 2 minutes to complete the dealer purchase report (Form 88–30), and 4 minutes to summarize and call-in the weekly IVR report. The response times shown include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding whether these proposed collections-of-information are necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection-of-information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 31, 1999.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended 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 § 648.4, paragraph (a)(5)(iii) is revised to read as follows:

§ 648.4 Vessel and individual commercial permits.

(a) * * *

(5) * * *

(iii) *Atlantic mackerel permit.* Any vessel of the United States may obtain a permit to fish for or retain Atlantic mackerel in or from the EEZ, except for vessels that exceed 165 feet in length overall (LOA), or 750 gross registered tons, or have shaft horsepower exceeding 3000 shp. Vessels that exceed the size restriction may obtain an at-sea processing permit specified under § 648.6(a)(2).

* * * * *

3. In § 648.5, paragraph (a) is revised to read as follows:

§ 648.5 Operator permits.

(a) *General.* Any operator of a vessel fishing for or possessing sea scallops in excess of 40 lb (18.1 kg), NE Multispecies, and, mackerel, squid, or butterfish, or scup, and, black sea bass, or, as of [insert effective date of the final rule], Atlantic surf clams and ocean quahog harvested in or from the EEZ, or issued a permit for these species under this part, must have been issued under this section and carry on board, a valid operator's permit.

* * * * *

4. In § 648.6, paragraph (a) is redesignated paragraph (a)(1) and a heading is added to newly redesignated paragraph (a)(1); a new paragraph (a)(2) is added; and a paragraph (c) is revised to read as follows:

§ 648.6 Dealer/processor permits.

(a) *General.* (1) *Dealer permits.* * * *

(2) *At-sea processors.* Notwithstanding the provisions of § 648.4(a)(5), any vessel of the United States must have been issued and carry on board a valid at-sea processor permit issued under this section to receive over the side, possess and process Atlantic mackerel harvested in or from the EEZ by a lawfully permitted vessel of the United States.

* * * * *

(c) *Information requirements.* Applications must contain at least the following information and any other information required by the Regional Administrator: Company name, place(s) of business (principal place of business if applying for a surf clam and ocean quahog permit), mailing address(es) and telephone number(s), owner's name, dealer permit number (if a renewal), name and signature of the person responsible for the truth and accuracy of the application, a copy of the certificate of incorporation if the business is a corporation, and a copy of the partnership agreement and the names and addresses of all partners, if the business is a partnership, name of at-sea processor vessel, and current vessel documentation papers, if an at-sea processor permit.

* * * * *

5. In § 648.7, the last two sentences of paragraph (c) are removed and paragraph (f)(3) is revised to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(f) * * *

(3) *At-sea purchasers, receivers, or processors.* All persons purchasing, receiving, or processing any summer flounder, or mackerel, or squid, or butterfish, or scup, or black sea bass at sea for landing at any port of the United States must submit information identical to that required by paragraph (a)(1), (a)(2), or (a)(3) of this section, as applicable, and provide those reports to the Regional Administrator or designee on the same frequency basis.

* * * * *

6. In § 648.14, paragraph (p)(10) is added to read as follows:

§ 648.14 Prohibitions.

* * * * *

(p) * * *

(10) Fish for, retain, or possess Atlantic mackerel in or from the EEZ with a vessel that exceeds 165 ft (50.3 m) in length overall, or 750 GRT, or 3000 shp, except for processing Atlantic mackerel by a vessel holding a valid at-sea processor permit pursuant to § 648.6(a)(2).

* * * * *

7. In § 648.20, paragraph (c) is revised to read as follows:

§ 648.20 Maximum optimum yield (OYs).

* * * * *

(c) *Illex*–catch associated with a fishing mortality rate of F_{msy}.

* * * * *

8. In § 648.21, paragraph (b)(2)(i) is revised to read as follows:

§ 648.21 Procedures for determining initial annual amounts.

* * * * *

(b) * * *.

(2) *Mackerel.* (i) Mackerel ABC must be calculated from the formula ABC = T - C, where C is the estimated catch of mackerel in Canadian waters for the upcoming fishing year and T is the catch associated with a fishing mortality rate that is equal to F_{target} (F= 0.25) at 890,000 mt spawning stock biomass (or greater) and decreases linearly to zero at 450,000 mt spawning stock biomass (½ B_{msy}).

* * * * *

9. Section 648.24 is added under subpart B to read as follows:

§ 648.24 Framework adjustments to management measures.

(a) *Within season management action.* The MAFMC, at any time, may initiate action to add or adjust management measures within the Atlantic Mackerel, Squid, and Butterfish FMP if it finds that action is necessary to meet or be consistent with the goals and objectives of the plan.

(1) *Adjustment process.* The MAFMC shall develop and analyze appropriate management actions over the span of at least two MAFMC meetings. The MAFMC must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting and prior to and at the second MAFMC meeting. The MAFMC's recommendations on adjustments or additions to management measures must come from one or more of the following categories: minimum fish size, maximum fish size, gear restrictions, gear requirements or prohibitions, permitting restrictions, recreational possession limit, recreational seasons, closed areas, commercial seasons, commercial trip limits, commercial quota system including commercial quota allocation procedure and possible quota set asides to mitigate bycatch, recreational harvest limit, annual specification quota setting process, FMP Monitoring Committee composition and process, description and identification of essential fish habitat (and fishing gear management measures that impact EFH), description and identification of habitat areas of particular concern,

overfishing definition and related thresholds and targets, regional gear restrictions, regional season restrictions (including option to split seasons), restrictions on vessel size (LOA and GRT) or shaft horsepower, any other management measures currently included in the FMP, set aside quota for scientific research, regional management, and process for inseason adjustment to the annual specification.

(2) *MAFMC recommendation*. After developing management actions and receiving public testimony, the MAFMC shall make a recommendation to the Regional Administrator. The MAFMC's recommendation must include supporting rationale, if management measures are recommended, an analysis of impacts, and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If MAFMC recommends that the management measures should be issued as a final rule, MAFMC must consider at least the following factors, and provide support and analysis for each factor considered:

(i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether the regulations would have to be in place for an entire harvest/fishing season.

(ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the recommended management measures.

(iii) Whether there is an immediate need to protect the resource.

(iv) Whether there will be a continuing evaluation of management measures following their implementation as a final rule.

(3) *Regional Administrator action*. If the MAFMC's recommendation includes adjustments or additions to management measures and, after reviewing the MAFMC's recommendation and supporting information:

(i) If the Regional Administrator concurs with MAFMC's recommended management measures and determines that the recommended management measures should be issued as a final rule based on the factors specified in paragraph (a)(2) of this section, the measures will be issued as a final rule in the **Federal Register**.

(ii) If the Regional Administrator concurs with MAFMC's recommended management measures and determines that the recommended management measures should be published first as a proposed rule, the measures will published as a proposed rule in the **Federal Register**. After additional public comment, if the Regional Administrator concurs with the MAFMC recommendation, the measures will be issued as a final rule in the **Federal Register**.

(iii) If the Regional Administrator does not concur, MAFMC will be notified in writing of the reasons for the non-concurrence.

(4) *Emergency actions*. Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

(b) [Reserved]

10. In § 648.73, paragraph (a)(4) is added to read as follows:

§ 648.73 Closed areas.

(a) * * *

(4) *Georges Bank*. The paralytic shellfish poisoning (PSP) contaminated area known as Georges Bank and located east of 69° W. longitude, and south of 42°20' N. latitude.

* * * * *

11. Section 648.77 under Subpart E is added to read as follows:

§ 648.77 Framework adjustments to management measures.

(a) *Within season management action*. At any time, MAFMC may initiate action to add or adjust management measures within the Atlantic Surf Clam and Ocean Quahog FMP if it finds that action is necessary to meet or be consistent with the goals and objectives of the plan.

(1) *Adjustment process*. MAFMC shall develop and analyze appropriate management actions over the span of at least two MAFMC meetings. MAFMC must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting, and prior to and at the second MAFMC meeting. The MAFMC's recommendations on adjustments or additions to management measures must come from one or more of the following categories: The overfishing definition (both the threshold and target levels) description and identification of EFH (and fishing gear management measures that impact EFH), habitat areas of particular concern, set aside quota for scientific research, vessel tracking system, optimum yield range.

(2) *MAFMC recommendation*. After developing management actions and receiving public testimony, MAFMC shall make a recommendation to the Regional Administrator. MAFMC's recommendation must include supporting rationale, if management measures are recommended, an analysis of impacts, and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If MAFMC recommends that the management measures should be issued as a final rule, it must consider at least the following factors, and provide support and analysis for each factor considered:

(i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether the regulations would have to be in place for an entire harvest/fishing season.

(ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of recommended management measures.

(iii) Whether there is an immediate need to protect the resource.

(iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.

(3) *Regional Administrator action*. If MAFMC's recommendation includes adjustments or additions to management measures and, after reviewing MAFMC's recommendation and supporting information:

(i) If the Regional Administrator concurs with the MAFMC's recommended management measures and determines that the recommended management measures should be issued as a final rule based on the factors specified in paragraph (a)(2) of this section, the measures will be issued as a final rule in the **Federal Register**.

(ii) If the Regional Administrator concurs with the MAFMC's recommended management measures and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the **Federal Register**. After additional public comment, if the Regional Administrator concurs with the MAFMC recommendation, the measures will be issued as a final rule and published in the **Federal Register**.

(iii) If the Regional Administrator does not concur, MAFMC will be notified in writing of the reasons for the non-concurrence.

(4) *Emergency actions*. Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

(b) [Reserved]

12. Section 648.107 is added under Subpart G to read as follows:

§ 648.107 Framework adjustments to management measures.

(a) *Within season management action*. MAFMC, at any time, may initiate action to add or adjust management measures within the Summer Flounder, Scup, and Black Sea Bass FMP if it finds that action is necessary to meet or be consistent with the goals and objectives of the plan.

(1) *Adjustment process*. MAFMC shall develop and analyze appropriate management actions over the span of at least two MAFMC meetings. MAFMC must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting and prior to and at the second MAFMC meeting. MAFMC's recommendations on adjustments or additions to management measures must come from one or more of the following categories: Minimum fish size, maximum fish size, gear restrictions, gear requirements or prohibitions, permitting restrictions, recreational possession limit, recreational seasons, closed areas, commercial seasons, commercial trip limits, commercial quota system including commercial quota allocation procedure and possible quota set asides to mitigate bycatch, recreational harvest limit, annual specification quota setting process, FMP Monitoring Committee composition and process, description and identification of essential fish habitat (and fishing gear management measures that impact EFH), description and identification of habitat areas of particular concern, overfishing definition and related thresholds and targets, regional gear restrictions, regional season restrictions (including option to split seasons), restrictions on vessel size (LOA and GRT) or shaft horsepower, operator permits, any other commercial or recreational management measures, any other management measures currently included in the FMP, and set aside quota for scientific research.

(2) *MAFMC recommendation*. After developing management actions and receiving public testimony, MAFMC shall make a recommendation to the Regional Administrator. MAFMC's recommendation must include supporting rationale, if management measures are recommended, an analysis of impacts, and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If MAFMC recommends that the management measures should be issued as a final rule, it must consider at least the following factors and provide support and analysis for each factor considered:

(i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether the regulations would have to be in place for an entire harvest/fishing season.

(ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of recommended management measures.

(iii) Whether there is an immediate need to protect the resource.

(iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.

(3) *Regional Administrator action*. If MAFMC's recommendation includes adjustments or additions to management measures and, if after reviewing the MAFMC's recommendation and supporting information:

(i) The Regional Administrator concurs with the MAFMC's recommended management measures and determines that the recommended management measures should be issued as a final rule based on the factors specified in paragraph (a)(2) of this section, the measures will be issued as a final rule in the **Federal Register**.

(ii) If the Regional Administrator concurs with the MAFMC's recommended management measures and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the **Federal Register**. After additional public comment, if the Regional Administrator concurs with the MAFMC recommendation, the measures will be issued as a final rule and published in the **Federal Register**.

(iii) If the Regional Administrator does not concur, the MAFMC will be notified in writing of the reasons for the non-concurrence.

(4) *Emergency actions*. Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

(b) [Reserved]

13. Section 648.127 is added under Subpart H to read as follows:

§ 648.127 Framework adjustments to management measures.

(a) *Within season management action*. See § 648.107(a).

(1) *Adjustment process*. See § 648.107(a)(1).

(2) *MAFMC recommendation*. See § 648.107(a)(2)(i) to (iv).

(3) *Regional Administrator action*. See § 648.107(a)(i) through (iii).

(4) *Emergency actions*. See § 648.107(a)(4).

(b) [Reserved]

14. Section 648.147 is added under Subpart I to read as follows:

§ 648.147 Framework adjustments to management measures.

(a) *Within season management action*. See § 648.107(a).

(1) *Adjustment process*. See § 648.107(a)(1).

(2) *MAFMC recommendation*. See § 648.107(a)(2)(i) through (iv).

(3) *Regional Administrator action*. See § 648.107(a)(i) through (iii).

(4) *Emergency actions*. See § 648.107(a)(4).

(b) [Reserved]

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