■ **Par. 2.** Section 301.6103(j)(1)–1T is amended by revising paragraphs (a), (b), and (e) and removing paragraph (f) to read as follows:

§ 301.6103(j)(1)–1T Disclosure of return information reflected on returns to officers and employees of the Department of Commerce for certain statistical purposes and related activities (temporary).

(a) through (b)(3)(xxiv) [Reserved]. For further guidance, see § 301.6103(j)(1)–1(a) and (b)(1) through (b)(3)(xxiv).

(xxv) From Form 6765 (when filed with corporation income tax returns)—total qualified research expenses.

* * * * *

(e) *Effective/applicability date.* This section is applicable to disclosures to the Bureau of Economic Analysis on or after July 6, 2006. The amendment to paragraph (b)(3)(xxv) of this section is applicable to disclosures to the Bureau of the Census on or after December 31, 2007. The applicability of the amendment to paragraph (b)(3)(xxv) expires on or before December 28, 2010.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: December 18, 2007.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E7–25129 Filed 12–28–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[Docket No. 2001–11213, Notice No. 11]

RIN 2130–AA81

Alcohol and Drug Testing: Determination of Minimum Random Testing Rates for 2008

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of Determination.

SUMMARY: Using data from Management Information System annual reports, FRA has determined that the 2006 rail industry random testing positive rates were 0.60 percent for drugs and 0.13 percent for alcohol. Because the industry-wide random drug testing positive rate has remained below 1.0 percent for the last two years, the Federal Railroad Administrator (Administrator) has determined that the minimum annual random drug testing rate for the period January 1, 2008, through December 31, 2008, will remain at 25 percent of covered railroad employees. In addition, because the industry-wide random alcohol testing violation rate has remained below 0.5 percent for the last two years, the Administrator has determined that the minimum random alcohol testing rate will remain at 10 percent of covered railroad employees for the period January 1, 2008, through December 31, 2008.

DATES: This notice is effective upon publication.

FOR FURTHER INFORMATION CONTACT: Lamar Allen, Alcohol and Drug Program Manager, Office of Safety Enforcement, Mail Stop 25, Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, (telephone 202 493–6313); or Kathy Schnakenberg, FRA Alcohol/Drug Program Specialist, (telephone 816 561–2714).

SUPPLEMENTARY INFORMATION:

Administrator's Determination of 2008 Minimum Random Drug and Alcohol Testing Rates

In a final rule published on December 2, 1994 (59 FR 62218), FRA announced that it will set future minimum random drug and alcohol testing rates according to the rail industry's overall positive rate, which is determined using annual railroad drug and alcohol program data taken from FRA's Management Information System. Based on this data, the Administrator publishes a **Federal Register** notice each year, announcing the minimum random drug and alcohol testing rates for the following year. *See* 49 CFR 219.602, 608.

Under this performance-based system, FRA may lower the minimum random drug testing rate to 25 percent of covered railroad employees whenever the industry-wide random drug positive rate is less than 1.0 percent for two calendar years while testing at a 50 percent minimum rate. For both drugs and alcohol, FRA reserves the right to consider other factors, such as the number of positives in its post-accident testing program, before deciding whether to lower annual minimum random testing rates. If the industry-wide random drug positive rate is 1.0 percent or higher in any subsequent calendar year, FRA will return the minimum random drug testing rate to 50 percent of covered railroad employees.

If the industry-wide random alcohol violation rate is less than 1.0 percent but greater than 0.5 percent, the minimum random alcohol testing rate will be 25 percent of covered railroad employees. FRA will raise the minimum random rate to 50 percent of covered railroad employees if the industry-wide random alcohol violation rate is 1.0 percent or higher in any subsequent calendar year. FRA may lower the minimum random alcohol testing rate to 10 percent of covered railroad employees whenever the industry-wide violation rate is less than 0.5 percent for two calendar years while testing at a higher rate.

In this notice, FRA announces that the minimum random drug testing rate will remain at 25 percent of covered railroad employees for the period January 1, 2008, through December 31, 2008, because the industry random drug testing positive rate was below 1.0 percent for the last two years (.060 in 2006 and .073 in 2005). The minimum random alcohol testing rate will remain at 10 percent of covered railroad employees for the period January 1, 2008, through December 31, 2008, because the industry-wide violation rate for alcohol has remained below 0.5 percent for the last two years (.013 in 2006 and .017 in 2005). Railroads remain free, as always, to conduct random testing at higher rates.

Issued in Washington, DC, on December 17, 2007.

Joseph H. Boardman,

Administrator.

[FR Doc. E7–25353 Filed 12–28–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 070612190–7684–02]

RIN 0648–AV58

Atlantic Highly Migratory Species; 2008 Atlantic Bluefin Tuna Quota Specifications and Effort Controls

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

ACTION: Final rule.

SUMMARY: NMFS announces the final rule to set 2008 fishing year specifications for the Atlantic bluefin tuna (BFT) fishery, including quotas for each of the established domestic fishing categories and effort controls for the General category and Angling category. This action is necessary to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic

management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: The rule is effective January 30, 2008, except that the Angling category retention limit found under the heading Angling Category Effort Controls is effective January 30, 2008 through December 31, 2008, and the General category retention limit found under the heading General Category Effort Controls is effective June 1, 2008, through August 31, 2008.

ADDRESSES: Supporting documents, including the 2007 Environmental Assessment (EA), Regulatory Impact Review (RIR), and Final Regulatory Flexibility Analysis (FRFA) and the Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP), are available from Sarah McLaughlin, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, One Blackburn Drive, Gloucester, MA 01930. These documents are also available from the HMS Management Division website at *http://www.nmfs.noaa.gov/sfa/hms/* or at the Federal e-Rulemaking Portal: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 978–281–9260.

SUPPLEMENTARY INFORMATION: Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Act and the ATCA. The ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations, as may be necessary and appropriate, to implement ICCAT recommendations. The authority to issue regulations under the Magnuson-Stevens Act and the ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA). The implementing regulations for Atlantic HMS are at 50 CFR part 635.

Background

Background information about the need for the BFT quota specifications and effort controls for the 2008 fishing year (January 1 through December 31, 2008) was provided in the preamble to the proposed rule (72 FR 56036, October 2, 2007) and is not repeated here.

The 2008 annual specifications are necessary to implement the 2006 ICCAT quota recommendation, as required by the ATCA, and to achieve domestic management objectives under the Magnuson-Stevens Act. This action is published in accordance with the framework procedures set forth in the Consolidated HMS FMP and is supported by the analytical documents prepared for the Consolidated HMS FMP and for the 2007 BFT specifications and effort controls. Copies of these documents are available from NMFS (see **ADDRESSES**).

In the final 2007 fishing year BFT specifications (72 FR 33401, June 18, 2007), NMFS modified the baseline landings quota to 1,165.12 mt to implement the 2006 ICCAT recommendation and set the category subquotas per the allocations established in the Consolidated HMS FMP. The baseline quotas are as follows: General category—548.8 mt; Harpoon category—45.4 mt; Purse Seine category—216.7 mt; Angling category—229.5 mt; Longline category—94.4 mt; and Trap category—1.2 mt. An additional 29.1 mt is allocated to the Reserve category for inseason adjustments, scientific research collection, potential overharvest in any category except the Purse Seine category, and potential quota transfers.

The baseline Angling category quota of 229.5 mt is further subdivided as follows: School BFT—119 mt, with 45.8 mt to the northern area (north of 39°18′ N. latitude), 51.2 mt to the southern area (south of 39°18′ N. latitude), plus 22 mt held in reserve; large school/small medium BFT—105.2 mt, with 49.6 mt to the northern area and 55.6 mt to the southern area; and large medium/giant BFT—5.3 mt, with 1.8 mt to the northern area and 3.5 mt to the southern area. The 25–mt Northeast Distant gear restricted area (NED) set-aside quota is in addition to the overall incidental longline quota to be subdivided in accordance with the North/South allocation percentages (i.e., no more than 60 percent to the south of 31° N. latitude). Thus, the baseline Longline category quota of 94.4 mt is subdivided as follows: 37.8 mt to pelagic longline vessels landing BFT north of 31° N. latitude and 56.6 mt to pelagic longline vessels landing BFT south of 31° N. latitude, with 25 mt set-aside for bycatch of BFT related to directed pelagic longline fisheries in the NED. NMFS accounts for landings under this additional quota separately from other landings under the Longline north subcategory.

The baseline landings quota and category subquotas are effective until changed, for instance, as a result of a potential new ICCAT BFT Total Allowable Catch (TAC) recommendation made at its upcoming 2008 Annual Meeting. Consistent with the Consolidated HMS FMP, and through this action, NMFS is making underharvest adjustments for the 2008 fishing year.

Changes from the Proposed Rule

Since 1997, NMFS has implemented General category RFDs to extend the General category fishing season. NMFS has received comment from fishery participants that RFDs are not necessary, as BFT landings in the last several years have been low and not at a pace that warrants NMFS control for market purposes. For the 2008 fishing year, NMFS has decided not to implement RFDs via this final rule. For more information, please see the Comments and Responses section. If NMFS determines that action is needed during the fishing year to extend the General category fishery, NMFS may publish an inseason action (under 50 CFR 635.23(a)(4)) to decrease the daily retention limit of large medium and giant BFT over a range of zero to a maximum of three per vessel.

2008 Quota Specifications

NMFS anticipates that the 2007 fishing year (June 1, 2007–December 31, 2007) underharvest will be substantial, based on current landings information and communication with BFT fishermen, and given the relatively low BFT harvest rates in recent years. However, the current ICCAT recommendation limits the amount of underharvest the United States may carry over for 2008 to 595.1 mt.

Landings of large medium and giant BFT (measuring 73 inches (185.4 cm) or greater) landed in the commercial BFT fisheries and under the Angling category trophy fishery are as follows, through November 26, 2007: General category—87.9 mt; Harpoon category—12.1 mt; Longline category—26.4 mt (18 mt in the North, 2.9 mt in the Northeast Distant gear restricted area (NED), and 5.5 mt in the South]; Trap category—0 mt; and Purse Seine category—28.0 mt. The recreational Angling category fishery is still underway and final estimates from the Large Pelagic Survey (LPS) are not expected to be available until the end of the year. Once LPS estimates are available, NMFS may adjust 2008 recreational measures (i.e., retention limits) and quotas or make necessary adjustments for the following year's fishery (i.e., the 2009 fishing year) based on the LPS data and analyses, the needs of the fishery, and other factors (such as the 2008 ICCAT recommendation, research needs, etc.), as appropriate. Currently, however, preliminary 2007 landings estimates for the fishery indicate that the 2007 fishing year underharvest is substantial, and that the full 595.1 mt of underharvest (consistent with the ICCAT

recommended limit) will be available for carryover to the 2008 fishing year.

NMFS establishes the final quota specifications as proposed, i.e., carries over 595.1 mt of BFT underharvest from the 2007 fishing year to the 2008 fishing year quota, and distributes that underharvest to: (1) Allow for potential transfer of a portion (up to 15 percent) of the 2008 U.S. quota to other ICCAT Contracting Parties and other domestic management objectives, if warranted; (2) ensure that the Longline category has sufficient quota to operate during the 2008 fishing year after the required accounting for BFT dead discards; and (3) provide the non-Longline quota categories the remainder of the underharvest consistent with the allocation scheme established in the Consolidated HMS FMP. As proposed, this final action applies 53.6 mt of BFT underharvest to cover the anticipated pelagic longline fishery landings during the 2008 fishing year. Additionally, this action places 178.5 mt (i.e., 15 percent of 1,190.12 mt) of 2007 fishing year underharvest in the Reserve for potential ICCAT transfer purposes and other domestic management objectives. This action distributes the remainder of the quota carryover (363 mt) to the Angling, General, Harpoon, Purse Seine, and Trap categories consistent with their FMP allocations.

Initial quota specifications for the 2008 fishing year as follows: General category—740.0 mt; Harpoon category—61.2 mt; Purse Seine category—292.2 mt; Angling category —309.5 mt; Longline category—56.7 mt; and Trap category—1.6 mt. Additionally, 207.6 mt are allocated to the Reserve category for inseason adjustments, scientific research collection, potential overharvest in any category except the Purse Seine category, and potential quota transfers.

The General category quota of 740.0 mt is divided per the time period allocations established in the Consolidated FMP, i.e., 39.2 mt (5.3 percent) for the period beginning January 1, 2008, and ending January 31, 2008, 370.0 mt (50 percent) for the period beginning June 1, 2008, and ending August 31, 2008, 196.1 mt (26.5 percent) for the period beginning September 1, 2008, and ending September 30, 2008, 96.2 mt (13 percent) for the period beginning October 1, 2008, and ending November 30, 2008; and 38.5 mt (5.2 percent) for the period beginning December 1, 2008, and ending December 31, 2008.

The Angling category quota of 309.5 mt is further subdivided as follows: School BFT—119 mt, with 45.8 mt to the northern area (north of 39°18′ N. latitude), 51.2 mt to the southern area (south of 39°18′ N. latitude), plus 22 mt held in reserve; large school/small medium BFT—183.4 mt, with 86.6 mt to the northern area and 96.8 mt to the southern area; and large medium/giant BFT—7.1 mt, with 2.4 mt to the northern area and 4.7 mt to the southern area.

The Longline category quota of 56.7 mt is subdivided as follows: 22.7 mt to pelagic longline vessels landing BFT north of 31° N. latitude and 34.0 mt to pelagic longline vessels landing BFT south of 31° N. latitude, with 25 mt set-aside for bycatch of BFT related to directed pelagic longline fisheries in the NED. NMFS will account for landings under this additional quota separately from other landings under the Longline north subcategory.

Once complete information, including recreational landings estimates, is available for the 2007 fishing year, NMFS may need to publish quota adjustments or other inseason management measures, as necessary, in 2008 for the 2008 fishing year.

General Category Effort Controls

Because of the large quota available for the General category, NMFS increases the retention limit of BFT for the January and June-August subperiods from the default one-fish retention limit. Therefore, persons aboard vessels permitted in the General category may retain three large medium or giant BFT (measuring 73 inches (185.4 cm) or greater) per vessel per day/trip from June 1, 2008, through August 31, 2008. Anticipating that this action might not be effective by January 1, 2008, NMFS published an inseason action to adjust the General category retention limit to three large medium or giant BFT per vessel per day/trip effective October 1, 2007, through January 31, 2008 (72 FR 61565, October 31, 2007). The BFT retention limit may be adjusted via inseason action, if warranted, under § 635.23(a)(4).

Angling Category Effort Controls

This final rule establishes an Angling category retention limit to one school BFT (27 inches (68.6 cm) to less than 47 inches (119.4 cm)), and two large school/small medium BFT (i.e., two BFT measuring 47 inches (119.4 cm) to less than 73 inches (185.4 cm)) per vessel per day/trip. This retention limit is effective for persons aboard vessels permitted in the Angling category from January 30, 2008 through December 31, 2008. This retention limit may be adjusted via inseason action, if warranted, under § 635.23(b)(3).

Comments and Responses

Below, NMFS summarizes and responds to all comments received on the proposed quota specifications and effort controls for the General and Angling categories. In addition, NMFS received comments on issues that were not considered part of this rulemaking. For example, NMFS received comment that the pelagic longline incidental BFT retention limits should be raised to reduce regulatory discard of commercial-sized BFT. In contrast, NMFS received a request from an environmental organization to take action to limit BFT mortality on pelagic longline gear and to remove the exemption from target catch requirements that currently applies to pelagic longline vessels fishing in the Northeast Distant gear restricted area until the 25–mt set-aside for that area is met. Another commenter expressed frustration with Purse Seine fishing in Cape Cod Bay and alleged unchecked violation of BFT fishing regulations in general. NMFS acknowledges receipt of these comments, although the issues raised are not addressed in this action as they were not considered part of this rulemaking.

A. BFT Quotas

Comment 1: NMFS received a range of comments on the quota specifications. Most of the commenters wrote or spoke about the need for greater conservation measures, both for juvenile and spawning-sized BFT. One commenter opposed carryover of underharvest in any fishery from one year to the next. An environmental organization representative requests that NMFS keep landings of school fish low in 2008 to contribute to rebuilding the BFT population and to ensure a recreational fishery in the last year of the four-year (2007–2010) balancing period over which ICCAT recommends limiting school BFT landings to 10 percent of the TAC (i.e., an average of 119 mt annually). In contrast, one commenter asked if NMFS would adjust the school BFT subquota (upward of the proposed 119 mt) if landings estimates indicate that less than 119 mt will have been taken in the 2007 fishing year (i.e., if NMFS could increase the school BFT quota for 2008 while maintaining average landings of 119 mt annually over the 2007–2010 balancing period).

Response: Carryover of underharvest (limited to no more than 50 percent of the U.S. TAC) is consistent with both the ICCAT recommendation and the BFT quota regulations. The specifications included in this rule reflect application of underharvest from

the 2007 fishing year to the baseline quotas that were established in the 2007 final specifications (72 FR 33401, June 18, 2007). The distribution of the 595.1–mt underharvest provides for several existing and potential management needs, namely: (1) Setting aside sufficient quota for a potential transfer to another ICCAT Contracting Party, if warranted; (2) providing sufficient quota for pelagic longline operations; (3) appropriately accounting for dead discards; and (4) distributing the remainder per the Consolidated HMS FMP allocation. Reduction of the overall quota, or to category quota and subquota allocations, would involve a regulatory change and/or amendment to the Consolidated HMS FMP. The final Angling category school BFT subquota is 119 mt. Final LPS estimates for the 2007 fishing year will not be compete until after preparation of this final rule. NMFS does not currently have information that would support an increase to the Angling category school BFT subquota for the 2008 fishing year. As mentioned above, NMFS may need to publish a quota adjustment or other inseason action in 2008 once landings information for the 2007 fishing year is complete. However, as 2007 is the first year of the current 4-year balancing period, NMFS has considerable flexibility over the next 3 years to manage the school BFT fishery (including adjustment of retention limits) consistent with the ICCAT recommendation that limits tolerance for school BFT landings to 10 percent of the U.S. TAC, calculated on a 4-year average (i.e., 2007–2010).

Comment 2: Some commenters opposed the concept of a U.S. quota transfer to another ICCAT-contracting party. An industry representative suggested that NMFS fully allocate the quota carryover amount to the quota categories rather than holding 15–percent of the TAC (178.5 mt) in the Reserve, and suggests that NMFS subsequently consult with representatives of applicable quota categories if and when a quota transfer request is received. This commenter anticipates that such a request would be initiated by industry in consultation with the industry of another ICCAT Contracting Party.

Response: The authority to transfer BFT quota to other ICCAT contracting parties originates with a 2006 ICCAT recommendation, which allows a contracting party to transfer up to 15 percent of its TAC to another Contracting Party. NMFS notes that any transfer requests would be initiated by other ICCAT member countries to the U.S. Government. In response to a transfer request, the United States (through NMFS) would evaluate several factors, including the projected ability of U.S. vessels to harvest the U.S. TAC during the fishing year and potential impacts to the stock, in a separate action and consider public input on that action. In these specifications, NMFS is placing 178.5 mt (15 percent of the U.S. TAC) of 2007 fishing year underhavest in the Reserve so that, if the United States were to approve a transfer, the quota would be taken from the Reserve and not from category-specific quotas. NMFS maintains that, should a transfer to another ICCAT contracting party be considered and approved, it should be taken from the Reserve, which NMFS specifically holds for purposes of inseason or annual adjustments and fishery research.

Because of the ICCAT-recommended limit on quota carryover and given the recent trend of substantial U.S. TAC underharvest, distribution of 178.5 mt of carryover to individual quota categories would not result in substantially greater future fishing opportunities than holding that amount in Reserve. Further, the regulations regarding determination criteria and annual adjustment of the BFT quota at §§ 635.27(a)(8) and 635.27(a)(9) allow NMFS to transfer quotas among categories based on the several criteria (such as a review of landing trends, the projected ability of the vessels fishing under a particular category quota to harvest the additional amount of BFT before the end of the fishing year, the estimated amounts by which quotas for other categories might be exceeded, the effects of the adjustment on accomplishing the objectives of the fishery management plan, etc.). Therefore, should a situation arise in which a BFT domestic quota transfer from the Reserve to a quota category is needed to avoid exceeding that category's quota, NMFS could take action as appropriate.

The carryover of BFT underharvest that NMFS proposed, and finalizes in this action, is consistent with the Consolidated HMS FMP and with the 2006 ICCAT recommendation to limit carryover to 50 percent of an ICCAT contracting party's initial TAC. A regulatory amendment would be required for NMFS not to carry forward unharvested quota from one year to the next.

B. General Category Effort Controls

Comment 1: As described above, NMFS received comments that the setting of RFDs is not necessary, as BFT landings in the General category have been low, and not at a pace that warrants NMFS control for market purposes.

Response: NMFS agrees that overall landings in the last few years have been lower than they have since the late 1990s, when NMFS began to implement RFDs to extend the General category season for as long as possible to provide fishing opportunities over an expanded temporal and geographic range. Due to low landings rates in recent years and the fact that the fishery has not needed to be closed, and based on the expectation that landings rates in the 2008 fishing season will be similar, NMFS is not implementing RFDs through this final rule. NMFS may use its inseason action authority at 50 CFR 635.23(a)(4) to adjust the General category retention limit if it determines that action is needed during the fishing year to extend the General category fishery.

Comment 2: One commenter suggested, due to continued underharvest of BFT, that a General category daily retention limit of two rather than three BFT measuring 73 inches or greater (as proposed) per vessel per day/trip, would be appropriate, while still meeting the needs of commercial BFT fishermen.

Response: NMFS acknowledges the recent low catches in the General category fishery. NMFS is contributing to research and monitoring efforts to determine the reasons for the apparent lack of availability of BFT to the U.S. fishery, i.e., whether due to lower stock abundance or changes in BFT distribution. In the meantime, NMFS is setting the General category daily retention limit at three BFT to allow increased opportunities to harvest the General category quota during periods when catch rates have historically been low, and to avoid accumulation of unused quota.

C. Angling Category Effort Controls

Comment 1: NMFS received a range of comments on the Angling category effort controls. Some commenters supported the Angling category retention limit as proposed, and some expressed that anglers should be limited to one fish per day. Related to the comment on the Angling category school BFT subquota in Section A, one commenter asked if the daily retention limit for school BFT could be increased without risking the 4-year average of 119 mt of landings being exceeded.

Response: NMFS currently does not have complete landings estimates for the 2007 fishing year and therefore does not have sufficient information to support a change to the 2008 fishing year Angling category retention limit.

NMFS may determine, once 2008 estimates are complete, that the retention limit should be adjusted in order to meet the limit on school BFT over the 4-year balancing period. NMFS has the authority either to make inseason adjustments to the Angling category quota during the 2008 fishing year, or, depending on the results of the LPS data and analyses and the needs of the fishery, may make necessary adjustments (such as retention limits, quotas, and subquotas) in the 2009 fishing year specifications and effort controls.

Classification

NMFS publishes these final specifications and effort controls under the authority of the Magnuson-Stevens Act and ATCA. The Assistant Administrator for Fisheries (AA) has determined that the regulations contained in this final rule are necessary to implement the recommendations of ICCAT and to manage the domestic Atlantic HMS fisheries, and are consistent with the Magnuson-Stevens Act and its National Standards.

This final rule 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.

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

Dated: December 20, 2007.

Samuel D. Rauch III,

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

[FR Doc. E7–25256 Filed 12–28–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071030625–7696–02]

RIN 0648–XC84

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 2008 Summer Flounder, Scup, and Black Sea Bass Specifications; Preliminary 2008 Quota Adjustments; 2008 Summer Flounder Quota for Delaware

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

ACTION: Final rule.

SUMMARY: NMFS issues final specifications for the 2008 summer flounder, scup, and black sea bass fisheries. This final rule specifies allowed harvest limits for both commercial and recreational fisheries, including commercial scup possession limits. This action prohibits federally permitted commercial vessels from landing summer flounder in Delaware in 2008 due to continued quota repayment from previous years' overages.

The actions of this final rule are necessary to comply with regulations implementing the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP), as well as to ensure compliance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The intent of this action is to establish harvest levels and other management measures to ensure that target fishing mortality rates (F) or exploitation rates, as specified for these species in the FMP, are not exceeded. In addition, this action implements measures that ensure continued rebuilding of these three overfished species and ends overfishing in the summer flounder fishery.

DATES: Effective January 1, 2008, through December 31, 2008.

ADDRESSES: Copies of the specifications document, including the Environmental Assessment (EA), Regulatory Impact Review (RIR), Initial Regulatory Flexibility Analysis (IRFA), and other supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901–6790. The specifications document is also accessible via the Internet at *http://www.nero.noaa.gov.* The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, public comments and responses contained in this final rule, and the summary of impacts and alternatives contained in this final rule. Copies of the small entity compliance guide are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298.

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

SUPPLEMENTARY INFORMATION:

Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively under the provisions of the FMP developed by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission), in consultation with the New England and South Atlantic Fishery Management Councils. The management units specified in the FMP include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina (NC) northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35°13.3′ N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, NC) northward to the U.S./Canada border. The Council prepared the FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations implementing the FMP appear at 50 CFR part 648, subparts A (general provisions), G (summer flounder), H (scup), and I (black sea bass). General regulations governing U.S. fisheries also appear at 50 CFR part 600. States manage summer flounder within 3 nautical miles of their coasts, under the Commission's plan for summer flounder, scup, and black sea bass. The Federal regulations govern vessels fishing in the exclusive economic zone (EEZ), as well as vessels possessing a Federal fisheries permit, regardless of where they fish.

The regulations outline the process for specifying the annual catch limits for the summer flounder, scup, and black sea bass commercial and recreational fisheries, as well as other management measures (e.g., mesh requirements, minimum fish sizes, gear restrictions,