

not overfished ( $B_{2011}/B_{msy} = 1.14$ ), and overfishing is not occurring ( $F_{2011}/F_{msy} = 0.82$ ). Increasing the retention limits for this U.S. handgear fishery is not expected to affect the swordfish stock status determination because any additional landings would be within the established overall U.S. North Atlantic swordfish quota allocation recommended by ICCAT. Increasing opportunity beginning on January 1, 2017, is also important because of the migratory nature and seasonal distribution of swordfish. In a particular geographic region, or waters accessible from a particular port, the amount of fishing opportunity for swordfish may be constrained by the short amount of time the swordfish are present as they migrate.

NMFS also has determined that the retention limit will remain at zero swordfish per vessel per trip in the Florida SWO Management Area at this time. As discussed above, NMFS considered consistency with the 2006 HMS FMP and its amendments and the importance for NMFS to continue to provide protection to important swordfish juvenile areas and migratory corridors. As described in Amendment 8 to the 2006 Consolidated HMS FMP (78 FR 52012), the area off the southeastern coast of Florida, particularly the Florida Straits, contains oceanographic features that make the area biologically unique. It provides important juvenile swordfish habitat, and is essentially a narrow migratory corridor containing high concentrations of swordfish located in close proximity to high concentrations of people who may fish for them. Public comment on Amendment 8, including from the Florida Fish and Wildlife Conservation Commission, indicated concern about the resultant high potential for the improper rapid growth of a commercial fishery, increased catches of undersized swordfish, the potential for larger numbers of fishermen in the area, and the potential for crowding of fishermen, which could lead to gear and user conflicts. These concerns remain valid. NMFS will continue to collect information to evaluate the appropriateness of the retention limit in the Florida SWO Management Area and other regional retention limits. This action therefore maintains a zero-fish retention limit in the Florida Swordfish Management Area.

These adjustments are consistent with the 2006 Consolidated HMS FMP as amended, ATCA, and the Magnuson-Stevens Act, and are not expected to negatively impact stock health.

#### Monitoring and Reporting

NMFS will continue to monitor the swordfish fishery closely during 2017 through mandatory landings and catch reports. Dealers are required to submit landing reports and negative reports (if no swordfish were purchased) on a weekly basis.

Depending upon the level of fishing effort and catch rates of swordfish, NMFS may determine that additional retention limit adjustments or closures are necessary to ensure that available quota is not exceeded or to enhance fishing opportunities. Subsequent actions, if any, will be published in the **Federal Register**. In addition, fishermen may access <http://www.nmfs.noaa.gov/sfa/hms/species/swordfish/landings/index.html> for updates on quota monitoring.

#### Classification

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

The regulations implementing the 2006 Consolidated HMS FMP, as amended, provide for inseason retention limit adjustments to respond to changes in swordfish landings, the availability of swordfish on the fishing grounds, the migratory nature of this species, and regional variations in the fishery. Based on available swordfish quota, stock abundance, fishery performance in recent years, and the availability of swordfish on the fishing grounds, among other considerations, adjustment to the SWO General Commercial permit retention limits from the default levels as discussed above is warranted, except that it maintains a zero-fish retention limit in the Florida SWO Management Area. Analysis of available data shows that adjustment to the swordfish daily retention limit from the default levels would result in minimal risks of exceeding the ICCAT-allocated quota. NMFS provides notification of retention limit adjustments by publishing the notice in the **Federal Register**, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the "Atlantic HMS Breaking News" Web site at [http://www.nmfs.noaa.gov/sfa/hms/news/breaking\\_news.html](http://www.nmfs.noaa.gov/sfa/hms/news/breaking_news.html). Delays in temporarily increasing these retention limits caused by the time required to publish a proposed rule and accept public comment would adversely and unnecessarily affect those SWO General Commercial permit holders and HMS

Charter/Headboat permit holders that would otherwise have an opportunity to harvest more than the default retention limits of three swordfish per vessel per trip in the Northwest Atlantic and Gulf of Mexico regions, and two swordfish per vessel per trip in the U.S. Caribbean region. Further, any delay beyond January 1, 2017, the start of the first semi-annual directed fishing period, could exacerbate the problem of low swordfish landings and subsequent quota rollovers. Limited opportunities to harvest the directed swordfish quota may have negative social and economic impacts for U.S. fishermen. Adjustment of the retention limits needs to be effective on January 1, 2017, to allow all of the affected sectors to benefit from the adjustment during the relevant time period, which could pass by for some fishermen if the action is delayed for notice and public comment, and to not preclude fishing opportunities for fishermen, particularly in the Gulf of Mexico and U.S. Caribbean regions, who have access to the fishery during a short time period because of seasonal fish migration. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is also good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.24(b)(4) and is exempt from review under Executive Order 12866.

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

Dated: December 9, 2016.

**Emily H. Menashes,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 150903814-5999-02]

RIN 0648-XF073

#### Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

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

**ACTION:** Temporary rule; quota transfer.

**SUMMARY:** NMFS announces that the State of Maine is transferring a portion of its 2016 commercial summer flounder quota to the State of Connecticut. These quota adjustments are necessary to comply with the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan quota transfer provision. This announcement informs the public of the revised commercial quotas for Maine and Connecticut.

**DATES:** Effective December 16, 2016, through December 31, 2016.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Hanson, Fishery Management Specialist, (978) 281-9180.

**SUPPLEMENTARY INFORMATION:** Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.110. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The

process to set the annual commercial quota and the percent allocated to each state are described in § 648.102, and the initial 2016 allocations were published on December 28, 2015 (80 FR 80689).

The final rule implementing Amendment 5 to the Summer Flounder Fishery Management Plan, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider the criteria in § 648.102(c)(2)(i)(A) through (C) in the evaluation of requests for quota transfers or combinations.

Maine is transferring 3,800 lb (1,724 kg) of summer flounder commercial

quota to Connecticut. This transfer was prompted by state officials in Connecticut to ensure their commercial summer flounder quota is not exceeded. The revised summer flounder quotas for calendar year 2016 are now: Maine, 64 lb (29 kg); and Connecticut, 187,166 lb (84,897 kg); based on the initial quotas published in the 2016–2018 Summer Flounder, Scup, and Black Sea Bass Specifications on December 28, 2015 (80 FR 80689).

#### **Classification**

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: December 9, 2016.

**Emily H. Menashes,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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