

dates themselves are calculated based on average catch rates for the fishery and reporting methods by Federal dealers and are established to prevent overfishing. Any under- or overharvest of the quota will be accounted in the quota the following year, as appropriate, consistent with the regulations. This action is required under 50 CFR 635.27(b)(1) and is exempt from review under Executive Order 12866.

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

Dated: May 25, 2004.

Alan D. Risenhoover,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 04-12354 Filed 5-28-04; 8:45 am]
BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 040302080-4157-02 ;
I.D.021104C]

RIN 0648-AR44

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid and Butterfish Fisheries; Framework Adjustment 4

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

ACTION: Final rule for Framework Adjustment 4 (Framework 4) to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP).

SUMMARY: NMFS issues the final rule to implement measures contained in Framework 4. This action extends the limited entry program for the *Illex* squid fishery for an additional five years. This action is intended to further the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective July 1, 2004, through July 1, 2009.

ADDRESSES: Copies of Framework 4, including the Final Environmental Impact Statement (FEIS) and Regulatory Impact Review (RIR)/ Regulatory Flexibility Analysis (RFA), are available from: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council (Council), Room 2115, Federal Building, 300 South New Street, Dover, DE 19904-6790. The FEIS/RIR/RFA and the Record of

Decision (ROD) are accessible via the Internet at <http://www.nero.noaa.gov>. Copies of the Record of Decision (ROD) are also available from the Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298.

FOR FURTHER INFORMATION CONTACT: Eric Jay Dolin, Fishery Policy Analyst; phone 978-281-9259; fax 978-281-9135; e-mail eric.dolin@noaa.gov.

SUPPLEMENTARY INFORMATION: This action extends the *Illex* squid limited entry (moratorium) program until July 1, 2009, to prevent overcapitalization while the issue is further considered in an amendment to the FMP (Amendment 9), which is being developed by the Council. This extension complies with the criteria in section 303(b)(6) of the Magnuson-Stevens Act. The extension will allow the Council additional time to consider long-term management for the *Illex* squid fishery, including the limited entry program. Vessels that took small quantities of *Illex* squid in the past may continue to do so under the incidental catch provision of the FMP.

The proposed rule for Framework 4 was published on March 26, 2004 (69 FR 15778). Public comments were accepted through April 26, 2004. A full discussion of the background of this action was provided in the proposal and is not repeated here. The final Framework 4 provision is unchanged from that which was proposed.

Comments and Responses

One comment was received from a private individual.

Comment: The number of boats that are allowed to fish for *Illex* under the moratorium should be cut by 50 percent.

Response: Cutting the number of moratorium permits in half is outside the scope of this framework action, the sole purpose of which is to extend the existing moratorium on entry to the *Illex* fishery while the Council addresses this issue in Amendment 9.

Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Included in this final rule is the Final Regulatory Flexibility Analysis (FRFA) prepared pursuant to 5 U.S.C. 604(a). The FRFA incorporates the discussion that follows, the comments and responses to the proposed rule, and the Initial RFA (IRFA) and other analyses completed in support of this action. A copy of the IRFA is available from the Executive Director of the Council and via the Internet (see **ADDRESSES**).

Final Regulatory Flexibility Analysis

Statement of Objective and Need

A description of the reasons why this action is being considered, and the objectives of and legal basis for this action, is contained in the preamble to the proposed rule and is not repeated here.

Summary of Significant Issues Raised in Public Comments

One comment was submitted on the proposed rule, but it was not specific to the IRFA or the economic impact of the rule.

Description and Estimate of Number of Small Entities to Which the Rule Will Apply

There are 72 vessels that have been issued moratorium permits, all of which would be impacted by this action. There are no large entities (vessels) participating in this fishery, as defined in section 601 of the Regulatory Flexibility Act. Implementation of this action is not expected to affect the current structure of the vessels allowed to participate in this fishery, therefore, it is not expected to affect revenues or profits of the participating vessels. Also, since the *Illex* fishery is regulated via a hard quota system, this action would not directly affect the quantity of *Illex* landed in the commercial fishery.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action does not contain any new collection-of-information, reporting, recordkeeping, or other compliance requirements. It does not duplicate, overlap, or conflict with any other Federal rules.

Minimizing Significant Economic Impacts on Small Entities

In addition to the preferred Alternative 1, the Council considered three other alternatives. Alternative 2 would have extended the moratorium on entry to the *Illex* fishery for an additional two years (through July 1, 2005); Alternative 3 would have allowed the moratorium on entry to the *Illex* fishery to expire on July 1, 2003 (no action); and Alternative 4 would have extended the moratorium on entry to the *Illex* fishery indefinitely. Alternative 4 was rejected from further consideration and analysis because, as explained in detail in the proposed rule, the Council and NMFS considered the measure to be beyond the scope of a framework action. The framework adjustment process set forth at 50 CFR 648.24 is a mechanism to add

management measures to or adjust management measures in the FMP. As a consequence, the *Illex* squid moratorium limitation in the FMP is subject to an adjustment through this framework adjustment process. But the Council concluded that this process was developed to make revisions to the measures in the FMP that did not represent major changes to cornerstone provisions of the FMP, such as the moratorium on entry into the *Illex* squid fishery. Under the Magnuson-Stevens Act, the process of amending the FMP is the appropriate mechanism to extend the moratorium indefinitely.

Alternative 2 would have extended the moratorium on entry of new vessels into the *Illex* fishery, though for a shorter period. Therefore, it would not minimize impacts on vessels when compared to this action. Under Alternative 3, the no-action alternative, the *Illex* fishery would have reverted to open access which could potentially impact the current participants in the directed fishery. In 2002, there were 72 vessels permitted to participate in the directed *Illex* fishery, however, only 50 percent of those vessels (36 vessels) landed any *Illex* squid in 2002. The *Illex* squid vessels currently permitted to participate in the fishery have the capability to harvest the total harvest level. In fact, in 1998, permitted vessels were able to land the total harvest level and the fishery was closed early that year. Therefore, it is expected that if a significant number of additional vessels entered the fishery as a consequence of Alternative 3, it could affect the current revenue structures of participants and/or create derby-style fishing practices which could potentially lead to an early closure of the directed fishery.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule, or group of related rules, for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide will be sent to all holders of *Illex* moratorium permits. In addition, copies of this final rule and guide (i.e., permit holder letter) may be found at the following web site: <http://www.nmfs.gov/ro/doc/nero.html>.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 25, 2004.

William T. Hogarth

Assistant Administrator for Fisheries,
National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 648 is 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, the heading of paragraph (a)(5)(i) is revised to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(5) * * *

(i) *Loligo squid/butterfish and Illex squid moratorium permits (Illex squid moratorium is applicable from July 1, 1997, until July 1, 2009).* * * *

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[FR Doc. 04-12353 Filed 5-28-04; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 040113012-4145-03; I.D. 121903D]

RIN 0648-AR62

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Framework Adjustment 4; Correction

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

ACTION: Final rule.

SUMMARY: NMFS published a final rule in the **Federal Register** on March 29, 2004, implementing measures contained in Framework Adjustment 4 (Framework 4) to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). Framework 4 allows for the transfer at sea of scup between commercial fishing vessels, subject to certain requirements. The final rule incorrectly identified a cross-reference. This rule corrects the cross-reference contained in the regulatory text of the final rule implementing Framework 4.

DATES: Effective April 28, 2004.

FOR FURTHER INFORMATION CONTACT: Paul Perra, Fishery Policy Analyst, (978) 281-9153.

SUPPLEMENTARY INFORMATION: The final rule implementing measures contained in Framework 4 to the FMP was published in the **Federal Register** on March 29, 2004 (69 FR 16175). Section 648.6(a)(1) states, " * * * Persons aboard vessels receiving transfers of scup at sea from other vessels are deemed not to be dealers, and are not required to possess a valid dealer permit under this section, for purposes of receiving scup, provided the vessel complies with section 648.13(2)." However, the cross reference cited is misspelled. It violates the sequence of paragraph designation according to the Office of the **Federal Register**, and it must be correctly spelled as § 648.13 (i)(2).

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and the opportunity for public comment pursuant to authority set forth at 5 U.S.C. 553(b)(B), because such procedures would be unnecessary. This rule makes minor non-substantive change by spelling correctly the reference cited at § 648.6(a)(1). The public was advised in the preamble to both the proposed and final rules of the applicability of the ten conditions relating to the transfer of scup at sea codified at § 648.13(i)(2). Without the correction, this discrepancy will continue to exist, thus leading to confusion.

Because prior notice and opportunity for public comment are not required for this rule by U.S.C. 553, or any other law, the analytical requirements of the regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable. Accordingly, no regulatory flexibility analysis was required and none was prepared.

This final rule is exempt from review under Executive Order 12866.

List of Subjects in 50 CFR Part 648

Fishing, Fisheries, Reporting and recordkeeping requirements.

Dated: May 26, 2004.

William T. Hogarth,

Assistant Administrator for Fisheries,
National Marine Fisheries Service.

■ Accordingly 50 CFR part 648 is corrected by making the following correcting amendment: