

**SUPPLEMENTARY INFORMATION:****Background**

*Cirsium hydrophilum* var. *hydrophilum* (Suisun thistle) and *Cordylanthus mollis* ssp. *mollis* (soft bird's beak) are restricted to salt or brackish tidal marshes within the San Francisco Bay area in northern California. Habitat conversion, changes in salinity of tidal marshes, water pollution, indirect effects of urbanization, habitat fragmentation, mosquito abatement activities such as off-road vehicle use and dredging, competition with non-native plants, insect predation, chance environmental events, inadequacy of existing laws, erosion, and other human-caused activities variously threaten these plants. Activities such as waterfowl hunting, bird watching, and fishing do not adversely affect the plants. A proposal to list these two plants was published in the Federal Register on June 12, 1995 (60 FR 31000).

Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 et seq.) requires that a public hearing be held if it is requested within 45 days of the publication of the proposed rule. A public hearing request was received within the allotted time period from Paul Campos, General Council for the Building Industry Association. Because a Congressional moratorium on the Service's activities associated with final listing actions was in effect from April 1995, to April 1996, scheduling of the hearing was delayed. The Service has now scheduled a public hearing to be held on Wednesday, October 2, 1996, from 6:00 p.m. to 8:00 p.m. at the Holiday Inn, 1350 Holiday Lane, Fairfield, California.

Anyone wishing to make statements for the record should bring a written copy of their statement to the hearing. Oral statements may be limited in length if the number of parties present at the hearing necessitates such a limitation. Oral and written comments receive equal consideration. The Service places no limits on the length of written comments or materials presented at the hearing or mailed to the Service.

The comment period on the proposal was to close on August 21, 1995. To accommodate the hearing, the public comment period is reopened upon publication of this notice. Written comments may now be submitted until October 15, 1996, to the Service in the **ADDRESSES** section.

The primary author of this notice is Kirsten Tarp (see **ADDRESSES** section).

**Authority**

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

Dated: August 30, 1996.

Thomas Dwyer,

*Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.*

[FR Doc. 96-22765 Filed 9-5-96; 8:45 am]

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 960805216-6236-02; I.D. 081696D]

**RIN 0648-AH06**

**Fisheries of the Northeastern United States; Amendment 9 to the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Resubmission of Disapproved Measure**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule to obtain public comments concerning a provision of Amendment 9 to the Fishery Management Plan (FMP) for the Summer Flounder, Scup, and Black Sea Bass Fisheries that was initially disapproved, but that has been revised and resubmitted by the Mid-Atlantic Fishery Management Council (Council). This measure would establish a quarterly coastwide commercial quota setting mechanism with trip limits for the coastal states from Maine through North Carolina. The intent of Amendment 9 is to reduce fishing mortality and to allow the stock to rebuild.

**DATES:** Public comments must be received on or before September 26, 1996.

**ADDRESSES:** Send comments on this proposed rule to Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on the Resubmitted Black Sea Bass Measure."

Copies of the resubmitted portion of Amendment 9 and other supporting documents are available upon request

from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

**FOR FURTHER INFORMATION CONTACT:**

Regina L. Spallone, Fishery Policy Analyst, 508-281-9221.

**SUPPLEMENTARY INFORMATION:****Background**

The Council submitted Amendment 9 for Secretarial review on June 20, 1996. On July 19, 1996, NMFS, on behalf of the Secretary of Commerce, after a preliminary evaluation of Amendment 9, as authorized under section 304(a)(1)(A) of the Magnuson Fishery Management and Conservation Act (Magnuson Act), disapproved the provision that would have implemented a state-by-state quota for black sea bass in 1998. A proposed rule to implement the remainder of Amendment 9 was published on August 21, 1996 (61 FR 43217).

The Council revised the quota provision to address NMFS' concerns, which are summarized in the preamble to the proposed rule, and, under section 304(b)(3)(A) of the Magnuson Act, submitted for Secretarial review a proposed measure that would implement a quarterly coastwide quota with trip limits that would be allocated to the commercial black sea bass fishery from Maine through North Carolina.

**Proposed Measures**

The resubmitted measure would implement in 1998 a quarterly coastwide quota with trip limits that would be allocated to the commercial black sea bass fishery from Maine through North Carolina. The allocation and the associated percentages for the total quota would be: January-March (38.64 percent), April-June (29.26 percent), July-September (12.33 percent), and October-December (19.77 percent). Under the proposed measure, any black sea bass landed by a vessel possessing a black sea bass moratorium permit would count towards the quota, regardless of where the fish were harvested. Any black sea bass landed for sale by a vessel without a moratorium permit and fishing exclusively in state waters north of Cape Hatteras would be counted towards the quota by the state in which it is landed pursuant to the Fishery Management Plan for the Black Sea Bass Fishery adopted by the Atlantic States Marine Fisheries Commission. The Regional Director would close the exclusive economic zone (EEZ) to possession of black sea bass by commercial vessels with a

moratorium permit when any quarterly quota has been landed. States would have the responsibility for closure in their state to further landings.

A series of prohibitions and management measures have been proposed to address NMFS' original concerns with regard to monitoring and enforcement in the State of North Carolina. For example, because all landings of black sea bass by vessels with moratorium permits would count against the quota, landings of black sea bass in states south of North Carolina by these vessels would diminish the accuracy of the quota monitoring. The states of Maine through North Carolina have an investment in the administration of the quota system. In the event of a closure in the EEZ north of Cape Hatteras, vessels with moratorium permits could not possess black sea bass either north or south of Cape Hatteras in order to maintain the integrity of that closure, as it would be impossible to determine the harvest location of the black sea bass on board. As a consequence, owners of vessels that have both a moratorium permit and a snapper-grouper permit would be prevented from using their snapper-grouper permit to land black sea bass south of Cape Hatteras, unless they relinquish their moratorium permit. Therefore, to allow vessel owners with moratorium permits greater flexibility to fish for and land black sea bass south of Cape Hatteras, vessel owners could voluntarily relinquish their moratorium permit during a closure and fish the southern stock of black sea bass under their valid snapper-grouper permit. After a 6-month delay for administrative and enforcement purposes, they could reapply for a moratorium permit and again be subject to the provisions of that permit. It is anticipated that with these specific restrictions in place, implementation, monitoring, and enforcement of the quota would be possible.

#### Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act, as amended, requires NMFS to publish regulations proposed by a Council within 15 days of receipt of the amendment and proposed regulations. At this time, NMFS has not determined whether the measures that this rule would implement are consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. NMFS, in making that determination, will take into account the information, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule issued under authority of section 304(a) of the Magnuson Fishery Conservation and Management Act will not have a significant economic impact on a substantial number of small entities during the 1997 fishing year. The proposed rule would implement a coastwide commercial quota setting mechanism with trip limits allocated to quarterly periods (quota) for the black sea bass fishery in coastal states from Maine through North Carolina.

Because the quota would not be initiated until 1998, there will be no immediate effects on small entities from this rulemaking. During the 1997 fishing year, the Black Sea Bass Monitoring Committee (Monitoring Committee) will recommend a coastwide commercial quota and trip limits for 1998. The Monitoring Committee will review commercial and recreational catch data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; and other information, and recommend to the Mid-Atlantic Fishery Management Council (Council) the allowable levels of fishing and other restrictions necessary to achieve the specified target exploitation rates. Based on the Council's consideration of these factors and resulting recommendation, NMFS will issue the proposed specifications for the 1998 quota. If it is determined that the proposed specifications will not have a significant economic impact on a substantial number of small entities, it will be so certified. If not, an initial regulatory flexibility analysis will be prepared at that time.

The Council has determined that the revised measure has no impact on the previous determination that Amendment 9 is consistent to the maximum extent practicable with the approved coastal zone management programs of the Atlantic states. The Amendment 9 submission from the Council analyzed the impacts of a bimonthly coastwide quota and the change to a quarterly system is insignificant for the reasons outlined above. Therefore, the proposed modified measure falls within the scope of the Coastal Zone Management Act consistency review conducted for Amendment 9.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 30, 1996.

Nancy Foster,

*Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, the proposed rule published at 61 FR 43217, August 21, 1996, proposing to amend 50 CFR part 648 is further 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 paragraphs (a)(7)(i)(C), (a)(7)(i)(D), (a)(7)(i)(E), and (a)(7)(i)(F) are redesignated as (a)(7)(i)(D), (a)(7)(i)(E), (a)(7)(i)(F), and (a)(7)(i)(G), respectively, and paragraph (a)(7)(i)(C) is added to read as follows:

#### § 648.4 Vessel permits.

\* \* \* \* \*

(a)(7) \* \* \*

(i) \* \* \*

(C) *Voluntary relinquishment of permit.* A moratorium permit for the black sea bass fishery that is voluntarily relinquished or surrendered to the Regional Director will be reissued at the vessel owner's request after a minimum period of 6 months from the date of cancellation.

\* \* \* \* \*

3. In § 648.14 paragraph (t)(3) is revised, and paragraphs (t)(9) through (t)(11) are added, inclusively, to read as follows:

#### § 648.14 Prohibitions.

(t) \* \* \*

(3) Land black sea bass for sale in any state, or part thereof, north or south of 35°15.3' N. lat. after the effective date of the notification published in the Federal Register stating that the commercial coastwide quota has been harvested and the EEZ is closed to the harvest of black sea bass.

\* \* \* \* \*

(9) Possess, retain or land black sea bass harvested in or from the EEZ in excess of the commercial trip limit established pursuant to § 648.140.

(10) Land black sea bass for sale in any state south of North Carolina.

(11) Possess black sea bass harvested in or from the EEZ north or south of 35°15.3' N. lat. after the effective date of the notification published in the Federal Register stating that the commercial coastwide quota has been harvested and the EEZ is closed to the harvest of black sea bass.

\* \* \* \* \*

4. In § 648.140 paragraphs (b)(1) through (b)(7) are redesignated as (b)(3) through (b)(9), respectively, paragraphs (b)(1) and (b)(2) are added, paragraph (c) is revised, and paragraph (d) is added to read as follows:

**§ 648.140 Catch quotas and other restrictions.**

(a) \* \* \*

(b) \* \* \*

(1) A commercial quota allocated to quarterly periods set from a range of (0) to the maximum allowed to achieve the specified target exploitation rate specified in paragraph (a) of this section. Implementation of this measure will begin in 1998.

(2) A commercial trip limit set from a range of (0) to the maximum allowed to assure that the quarterly quota is not exceeded.

\* \* \* \* \*

(c) *Annual fishing measures.* The Demersal Species Committee shall review the recommendations of the Black Sea Bass Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall make its recommendations to the Council with respect to the measures necessary to assure that the target exploitation rate specified in paragraph (a) of this section are not exceeded. The Council shall review these recommendations and, based on the recommendations and public comment, make recommendations to the Regional Director with respect to the measures necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded. Included in the recommendation will be supporting documents, as appropriate, concerning the environmental and economic impacts of the proposed action. The Regional Director will review these recommendations and any recommendations of the Commission. After such review, the Regional Director will publish a proposed rule in the Federal Register by October 15 to implement a quarterly coastwide commercial quota, a recreational harvest limit, and additional management measures for the commercial fishery. A proposed rule will be published in the Federal Register by February 15 to implement additional management measures for the recreational fishery, if the Regional Director determines that such measures are necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded. After considering public comment, the Regional Director will publish a final rule in the Federal Register to implement the measures

necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded.

(d) *Distribution of annual quota.* (1) Beginning January 1, 1998, a coastwide commercial quota will be allocated by quarterly periods based upon the following percentages:

**QUARTERLY COMMERCIAL QUOTA SHARES**

Quarter	Share (percent)
January-March .....	38.64
April-June .....	29.26
July-September .....	12.33
October-December .....	19.77

(2) All black sea bass landed for sale in the states from North Carolina through Maine by a vessel with a moratorium permit issued under § 648.4(a)(7) of this part shall be applied against that quarter's coastwide commercial quota, regardless of where the black sea bass were harvested. All black sea bass landed for sale in the states from North Carolina through Maine by any vessel without a moratorium permit and fishing exclusively in state waters north of 35°15.3' N. lat. will be counted against the quota by the state in which it is landed pursuant to the Fishery Management Plan for the Black Sea Bass Fishery adopted by the Atlantic States Marine Fisheries Commission. The Regional Director will determine the date on which the quarterly quota will be harvested and the EEZ north of 35°15.3' N. lat. closed. The Regional Director will publish a notice in the Federal Register advising that, upon that date, no vessel may possess black sea bass in this area during a closure, nor may vessels issued a moratorium permit land black sea bass during the closure. Any overages of the commercial coastwide quota landed will be deducted from that quarter's coastwide quota for the following year.

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**50 CFR Part 679**

[I.D. 082796A]

RIN 0648-AH28

**Fisheries of the Exclusive Economic Zone Off Alaska; Protection of Red King Crab in Bristol Bay**

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

**ACTION:** Notice of Availability of an Amendment to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands area; request for comments.

**SUMMARY:** The North Pacific Fishery Management Council (Council) has submitted Amendment 37 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) for Secretarial review. Amendment 37 would establish the Red King Crab Savings Area trawl closure and the Nearshore Bristol Bay trawl closure, require increased observer coverage on some vessels in the closure areas, and adjust the Zone 1 red king crab prohibited species catch limits based on Bristol Bay red king crab abundance and biomass.

**DATES:** Comments on the FMP amendment should be submitted on or before October 29, 1996.

**ADDRESSES:** Comments on the FMP amendment should be submitted to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, Alaska, 99802-1668, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of Amendment 37 and the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) prepared for the amendment are available from the North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501-2252; telephone 907-271-2809.

**FOR FURTHER INFORMATION CONTACT:** Kaja Brix, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that each Regional Fishery Management Council submit any fishery management plan or plan amendment it prepares to NMFS for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that NMFS, upon receiving a fishery management plan or amendment, immediately publish a notice that the fishery management plan or amendment is available for public review and comment. NMFS will consider the public comments received during the comment period in determining whether to approve the FMP or amendment.

Bering Sea crab stocks are currently at relatively low levels based on 1995 NMFS bottom trawl survey data, which indicated that exploitable biomass of Bristol Bay red king crab is at about one-fifth record levels. The red king crab