

Notice”) contains proposed information collection requirements subject to the Paperwork Reduction Act of 1995. As part of our continuing effort to reduce paperwork burdens, we invite OMB, the general public, and other Federal agencies to take this opportunity to comment on the information collections contained in this Second Further Notice, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due May 26, 2006. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might “further reduce information collection burden on small business concerns with fewer than 25 employees.” In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Cathy Williams, Federal Communications Commission, 445 Twelfth Street, SW., Room 1–C823, Washington, DC 20554, or via the Internet to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov) and to Kristy L. LaLonde, OMB Desk Officer, 10234 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to [Kristy\\_L.LaLonde@omb.eop.gov](mailto:Kristy_L.LaLonde@omb.eop.gov), or via fax at 202–395–5167.

OMB Control Number: 3063–0754.

Title: Children’s Television

Programming Report.

Form No: FCC Form 398.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,962.

Estimated Time Per Response: 12 hours per quarter.

Frequency of Response:

Recordkeeping requirement; Quarterly reporting requirement.

Total Annual Burden: 94,176 hours.

Total Annual Costs: \$3,139,200.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: This Second Further Notice of Proposed Rule Making seeks

comment on a Joint Proposal of Industry and Advocates on Reconsideration of Children’s Television Rules proposing changes to the children’s television rules adopted by the Commission in its 2004 *Report and Order and Further Notice of Proposed Rule Making* in MM Docket 00–167, FCC 04–221, In the Matter of Children’s Television Obligations of Digital Television Broadcasters.

The *Report and Order*, MM Docket 00–167, FCC 04–221, adopted several new requirements that added additional recordkeeping and reporting requirements for licensees, including changes to FCC Form 398. In addition, the Joint Proposal recommends changes to some of the reporting and recordkeeping requirements, which would require additional changes to FCC Form 398, if the Joint Proposal is adopted by the Commission.

FCC Form 398 is required to be filed by commercial television broadcast stations each calendar quarter. The form is used to provide information of the efforts of commercial television stations to provide children’s educational and informational programs aired to meet their obligation under the Children’s Television Act of 1990 (CTA). The FCC Form 398 assists in efforts by the public and the Commission to monitor station compliance with the CTA.

*Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act, 5 U.S.C. 603 the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the proposals addressed in this Second Further Notice of Proposed Rulemaking. The IRFA is set forth in the Appendix of the Second Further Notice. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the Second Further Notice, and they should have a separate and distinct heading designating them as responses to the IRFA.

*Additional Information.* For additional information on this proceeding, please contact Kim Matthews, Policy Division, Media Bureau at (202) 418–2154, or Holly Saurer, Policy Division, Media Bureau at (202) 418–7283.

For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams at (202) 418–2918 or via the Internet at [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

Accordingly, *It is ordered* that, pursuant to the authority contained in

sections 4(i) & (j), 303, 307, 309 and 336 of the Communications Act of 1934 as amended, 47 U.S.C. 154(i) & (j), 303, 307, 309 and 336, this Second Further Notice of Proposed Rule Making *is adopted*.

*It is further ordered* that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this Second Further Notice of Proposed Rule Making, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

Federal Communications Commission.

**Marlene H. Dortch,**

Secretary.

[FR Doc. 06–2921 Filed 3–24–06; 8:45 am]

BILLING CODE 6712–01–P

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 060317073–6073–01; I.D. 031406A]

RIN 0648–AT28

#### Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2006

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

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

**SUMMARY:** NMFS proposes recreational management measures for the 2006 summer flounder, scup, and black sea bass fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the upcoming fishing year and to provide an opportunity for public comment. The intent of these measures is to prevent overfishing of the summer flounder, scup, and black sea bass resources.

**DATES:** Comments must be received by 5 p.m. local time, on April 11, 2006.

**ADDRESSES:** You may submit comments by any of the following methods:

- E-mail: [FSBREC2006@noaa.gov](mailto:FSBREC2006@noaa.gov). Include in the subject line the following identifier: “Comments on 2006 Summer Flounder, Scup, and Black Sea Bass Recreational Measures.”
- Federal e-rulemaking portal: <http://www.regulations.gov>

• Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope: "Comments on 2006 Summer Flounder, Scup, and Black Sea Bass Recreational Measures."

• Fax: (978) 281-9135.

Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and of the Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901-6790. The EA/RIR/IRFA is also accessible via the Internet at <http://www.nero.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin, Fishery Policy Analyst, (978) 281-9279.

**SUPPLEMENTARY INFORMATION:**

**Background**

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils.

The management units specified in the Fishery Management Plan (FMP) for the Summer Flounder, Scup, and Black Sea Bass Fisheries include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina 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°15.3' N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, NC) northward to the U.S./Canada border.

The FMP and its implementing regulations, which are found at 50 CFR part 648, subparts A (General Provisions), G (summer flounder), H (scup), and I (black sea bass), describe the process for specifying annual recreational measures that apply in the Exclusive Economic Zone (EEZ). The states manage these fisheries within 3 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 EEZ, as well as vessels possessing a Federal fisheries permit, regardless of where they fish.

The FMP established Monitoring Committees (Committees) for the three

fisheries, consisting of representatives from the Commission; the Mid-Atlantic, New England, and South Atlantic Councils; and NMFS. The FMP and its implementing regulations require the Committees to review scientific and other relevant information annually and to recommend management measures necessary to achieve the recreational harvest limits established for the summer flounder, scup, and black sea bass fisheries for the upcoming fishing year. The FMP limits these measures to minimum fish size, possession limit, and fishing season.

The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) then consider the Committees' recommendations and any public comment in making their recommendations to the Council and the Commission, respectively. The Council then reviews the recommendations of the Demersal Species Committee, makes its own recommendations, and forwards them to NMFS for review. The Commission similarly adopts recommendations for the states. NMFS is required to review the Council's recommendations to ensure that they are consistent with the targets specified for each species in the FMP.

Final quota specifications for the 2006 summer flounder, scup, and black sea bass fisheries were published on December 29, 2005 (70 FR 77060). These specifications were determined to be consistent with the 2006 target fishing mortality rate (F) for summer flounder, and with the target exploitation rates for scup and black sea bass. The 2006 coastwide recreational harvest limits are 9,293,695 lb (4,216 mt) for summer flounder, 4,153,168 lb (1,884 mt) for scup, and 3,988,732 lb (1,809 mt) for black sea bass. The specifications did not establish recreational measures, since final recreational catch data for 2005 were not available when the Council made its recreational harvest limit recommendation to NMFS.

All minimum fish sizes discussed below are total length measurements of the fish, i.e., the straight-line distance from the tip of the snout to the end of the tail while the fish is lying on its side. For black sea bass, total length measurement does not include the caudal fin tendril. All possession limits discussed below are per person.

**Summer Flounder**

Overall, recreational landings for 2005 were estimated to have been 10.04 million lb (4,554 mt), approximately 16 percent below the 2005 recreational

harvest limit (by weight). However, the following states are projected to have exceeded their 2005 state harvest limits when their allocations are converted to number of fish using the average weight of summer flounder harvested during 2004 and 2005: CT (18 percent over) and NY (23 percent over). The 2006 coastwide harvest limit is approximately 9.29 million lb (4,216 mt), a 22-percent decrease from the 2005 harvest limit, and 7 percent below the estimated 2005 landings. Assuming the same level of fishing effort in 2006, a 7-percent reduction in landings coastwide would be required for summer flounder. However, as described below, under conservation equivalency, as recommended by the Council, MA, CT, and NY would be required to reduce summer flounder landings (in number of fish) in 2006 by 15 percent, 35 percent, and 38 percent, respectively.

NMFS implemented Framework Adjustment 2 to the FMP (Framework Adjustment 2) on July 29, 2001 (66 FR 36208), which established a process that makes conservation equivalency an option for the summer flounder recreational fishery. Conservation equivalency allows each state to establish its own recreational management measures (possession limits, minimum fish size, and fishing seasons) to achieve its state harvest limit, as long as the combined effect of all of the states' management measures achieves the same level of conservation as would Federal coastwide measures developed to achieve the overall recreational harvest limit, if implemented by all of the states. Conservation equivalency was approved for the 2005 summer flounder recreational fishery.

The Council and Board recommend annually that either state-specific recreational measures be developed (conservation equivalency) or coastwide management measures be implemented by all states to ensure that the recreational harvest limit will not be exceeded. Even when the Council and Board recommend conservation equivalency, the Council must specify a set of coastwide measures that would apply if conservation equivalency is not approved.

If conservation equivalency is recommended, and following confirmation that the proposed state measures would achieve conservation equivalency, NMFS may waive the permit condition found at § 648.4(b), which requires federally permitted vessels to comply with the more restrictive management measures when state and Federal measures differ.

Federally permitted charter/party permit holders and recreational vessels fishing for summer flounder in the EEZ then would be subject to the recreational fishing measures implemented by the state in which they land summer flounder, rather than the coastwide measures. In addition, the Council and the Board must recommend precautionary default measures. The Commission would require adoption of the precautionary default measures by any state that either does not submit a summer flounder management proposal to the Commission's Summer Flounder Technical Committee, or that submits measures that are determined not to achieve the required reduction. The precautionary default measures are defined as the set of measures that would achieve the greatest reduction in landings required for any state.

In December 2005, the Council and Board voted to recommend conservation equivalency to achieve the 2006 recreational harvest limit. The Commission's conservation equivalency guidelines require the states to determine and implement appropriate state-specific management measures (i.e., possession limits, fish size limits, and fishing seasons) to achieve state-specific harvest limits. Under this approach, each state may implement unique management measures appropriate to that state, so long as these measures are determined by the Commission to provide equivalent conservation as would Federal coastwide measures developed to achieve the overall recreational harvest limit. According to the conservation equivalency procedures, established in Framework Adjustment 2, MA, CT, and NY would need to reduce their 2006 landings (in number of fish) by 15 percent, 35 percent, and 38 percent, respectively, relative to 2005 landings, to achieve their 2006 state harvest limits. The other states (from ME to NC) would not require any reductions in recreational summer flounder landings to achieve their 2006 state harvest limits.

The Board required that each state submit its conservation equivalency proposal to the Commission by January 15, 2006. The Commission's Summer Flounder Technical Committee then evaluated the proposals and advised the Board of each proposal's consistency with respect to achieving the coastwide recreational harvest limit. The Commission invited public participation in its review process by allowing public comment on the state proposals at the Technical Committee meeting and Board meeting. The Board met on February 22, 2006, and approved

several of the state management proposals. For some states, the Board approved multiple management options. As discussed below, MA, CT, and NY were allowed to revise their original 2006 management measure proposals submitted to the Commission based on approval of Addendum XVIII to the Interstate FMP (Addendum XVIII). Once the states select and submit their final summer flounder management measures to the Commission, the Commission officially will notify NMFS as to which state proposals have been approved or disapproved. NMFS retains the final authority to either approve or disapprove using conservation equivalency in place of the coastwide measures and will publish its determination in the final rule establishing the 2006 recreational measures for these fisheries.

In anticipation of the potentially drastic landings reductions necessary for some of the northern states, the Commission developed Addendum XVIII to introduce a new summer flounder recreational fishery management strategy for 2006. Addendum XVIII effectively lowers the reductions (in number of fish) that MA, CT, and NY would otherwise need to achieve under the existing conservation equivalency procedures. These three states will capitalize on harvest opportunities that are foregone by states that choose to maintain (rather than liberalize) their 2005 recreational fishing management measures in 2006. The Board approved Addendum XVIII on February 22, 2006. The states were required to submit their final recreational management measures for 2006 to the Commission by early March 2006, based on Commission guidance regarding necessary landings reductions, if applicable.

States that do not submit conservation equivalency proposals, or for which proposals were disapproved by the Commission, will be required by the Commission to adopt the precautionary default measures. In the case of states that are initially assigned precautionary default measures, but subsequently receive Commission approval of revised state measures, NMFS will publish a notice in the **Federal Register** announcing a waiver of the permit condition at § 648.4(b).

As described above, for each fishing year, NMFS implements either coastwide measures or conservation equivalent measures at the final rule stage. The coastwide measures recommended by the Council and Board for 2006 are the same as those recommended for 2005 and consist of a 17-inch (43.2-cm) minimum fish size, a

possession limit of four fish, and no closed season. In this action, NMFS proposes to maintain these coastwide measures in the EEZ, as they are expected to constrain landings to the overall recreational harvest limit, i.e., achieve approximately 94 percent of the 2006 target if applied coastwide. These measures would be waived if conservation equivalency is approved.

The precautionary default measures specified by the Council and Board are the same as specified for 2005 and consist of an 18-inch (45.7-cm) minimum fish size, a possession limit of one fish, and no closed season. These measures are estimated to achieve approximately 44 percent of the 2006 target if applied coastwide.

### Scup

The 2006 scup recreational harvest limit is approximately 4.15 million lb (1,884 mt), a 5-percent increase from the 2005 recreational harvest limit of 3.96 million lb (1,796 mt). Because recreational landings in 2005 were estimated to have been 2.49 million lb (1,129 mt), 37 percent below the 2005 harvest limit, no reduction in landings is necessary to achieve the 2006 target.

The 2006 scup recreational fishery will be managed under separate regulations for state and Federal waters; the Federal measures would apply to party/charter vessels with Federal permits and other vessels subject to the possession limit that fish in the EEZ. In Federal waters, to achieve the 2006 target, NMFS proposes to maintain the status quo coastwide management measures of a 10-inch (25.4-cm) minimum fish size, a 50-fish possession limit, and open seasons of January 1 through February 28, and September 18 through November 30, as recommended by the Council.

As in the past 4 years, the scup fishery in state waters will be managed under a regional conservation equivalency system developed through the Commission. Addendum XI to the Interstate FMP (Addendum XI), approved by the Board at the January 2004 Council/Commission meeting, requires that the states of MA through NY each develop state-specific management measures to constrain their landings to an annual harvest level (for this region) in number of fish (approximately 3.7 million fish for 2006), through a combination of minimum fish size, possession limits, and seasonal closures. Because the Federal FMP does not contain provisions for conservation equivalency, and states may adopt their own unique measures under Addendum XI, the Federal and state recreational scup

management measures will differ for 2006.

At the February 22, 2006, meeting, the Board approved a regional management proposal for MA through NY that would allow a season of at least 150 days, 30 days longer than in 2005. The Board retained a minimum fish size of 10.5 inches (26.7 cm) and a common possession limit (25 fish for private vessels and shore-based anglers; and 60 fish for party/charter vessels, dropping to 25 fish after a 2-month period) for the states of MA through NY. These northern states are expected to submit their final management measures to the Commission by April 1, 2006. NJ will maintain status quo scup recreational management measures of a 9-inch (22.9-cm) minimum size, a 50-fish possession limit, and open seasons of January 1 through February 28, and July 1 through December 31. Due to low scup landings in DE through NC, the Board approved the retention of status quo management measures for those states as well, i.e., an 8-inch (20.3-cm) minimum fish size, a 50-fish possession limit, and no closed season.

#### **Black Sea Bass**

Recreational landings in 2005 were estimated to have been 1.77 million lb (803 mt), 57 percent below the 2005 target of 4.13 million lb (1,873 mt). The 2006 recreational harvest limit is approximately 3.99 million lb (1,809 mt), a 3-percent decrease from the 2005 target. Based on 2005 landings, no reduction in landings is necessary to achieve the 2006 target.

For Federal waters, the Council and Board have approved measures that would maintain the 25-fish possession limit, the 12-inch (30.5-cm) minimum size, and open season of January 1 through December 31. NMFS proposes to maintain these measures, which are expected to constrain recreational black sea bass landings to the 2006 target.

#### **Classification**

NMFS has determined that the proposed rule is consistent with the FMP and preliminarily determined that the rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for

this action are contained at the beginning of this section of the preamble and in the SUMMARY section of the preamble. A summary of the analysis follows. A copy of the complete IRFA is available from the Council (see **ADDRESSES**).

This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

The proposed action could affect any recreational angler who fishes for summer flounder, scup, or black sea bass in the EEZ or on a party/charter vessel issued a Federal permit for summer flounder, scup, and/or black sea bass. However, the IRFA focuses upon the impacts on party/charter vessels issued a Federal permit for summer flounder, scup, and/or black sea bass because these vessels are considered small business entities for the purposes of the RFA, i.e., businesses with receipts (gross revenues) of up to \$3.5 million. These small entities can be specifically identified in the Federal vessel permit database and would be impacted by the recreational measures, regardless of whether they fish in Federal or state waters. Although individual recreational anglers are likely to be impacted, they are not considered small entities under the RFA. Also, there is no permit requirement to participate in these fisheries; thus, it would be difficult to quantify any impacts on recreational anglers in general.

The Council estimated that the proposed measures could affect any of the 803 vessels possessing a Federal charter/party permit for summer flounder, scup, and/or black sea bass in 2004, the most recent year for which complete permit data are available. However, only 327 of these vessels reported active participation in the recreational summer flounder, scup, and/or black sea bass fisheries in 2004.

In the EA/IRFA, the no-action alternative (i.e., maintenance of the regulations as codified) is defined as implementation of the following: (1) For summer flounder, coastwide measures of a 17-inch (43.2-cm) minimum fish size, a 4-fish possession limit, and no closed season, i.e., the measure that would be implemented if conservation equivalency is not implemented in the final rule; (2) for scup, a 10-inch (25.4-cm) minimum fish size, a 50-fish possession limit, and open seasons of January 1 through February 28, and September 18 through November 30; and (3) for black sea bass, a 12-inch (30.5-cm) minimum size, a 25-fish possession limit, and an open season of January 1 through December 31.

The implications of the no-action alternative are not substantial for scup and black sea bass. Landings of these species in 2005 were less than their respective targets, and the status quo measures are expected to constrain landings to the 2006 targets. For summer flounder, state-specific implications of the no-action (coastwide) alternative would be varied, resulting in regulations that are more restrictive than current conservation equivalent regulations for five states (MA, DE, MD, VA, and NC), and less restrictive for the remaining four states (RI, CT, NY, and NJ). In consideration of the recreational harvest limits established for the 2006 fishing year, taking no action in the summer flounder, scup, and black sea bass fisheries would be consistent with the goals and objectives of the FMP and its implementing regulations because it could prevent the 2006 recreational harvest limits from being exceeded.

Effects of the various management measures were analyzed by employing quantitative approaches, to the extent possible. Where quantitative data were not available, the Council conducted qualitative analyses. Although NMFS's RFA guidance recommends assessing changes in profitability as a result of proposed measures, the quantitative impacts were instead evaluated using changes in party/charter vessel revenues as a proxy for profitability. This is because reliable cost data are not available for these fisheries. Without reliable cost data, profits cannot be discriminated from gross revenues. As reliable cost data become available, impacts to profitability can be more accurately forecast. Similarly, changes to long-term solvency were not assessed due both to the absence of cost data and because the recreational management measures change annually according to the specification-setting process.

Assessments of potential changes in gross revenues for all 18 combinations of alternatives proposed in this action were conducted for federally permitted party/charter vessels in each state in the Northeast Region (NE). Management measures proposed under the summer flounder conservation equivalency alternative have yet to be adopted; therefore, potential losses under this alternative could not be analyzed in conjunction with alternatives proposed for scup and black sea bass. Since conservation equivalency allows each state to tailor specific recreational fishing measures to the needs of that state, while still achieving conservation goals, it is likely that the measures developed under this alternative, when considered in combination with the

measures proposed for scup and black sea bass, would have fewer overall adverse effects than any of the other combinations that were analyzed.

Impacts were examined by first estimating the number of angler trips aboard party/charter vessels in each state in 2005 that would have been affected by the proposed 2006 management measures. All 2005 party/charter fishing trips that would have been constrained by the proposed 2006 measures in each state were considered to be affected trips.

There is very little information available to estimate empirically how sensitive the affected party/charter vessel anglers might be to the proposed fishing regulations. If the proposed measures discourage trip-taking behavior among some of the affected anglers, economic losses may accrue to the party/charter vessel industry in the form of reduced access fees. On the other hand, if the proposed measures do not have a negative impact on the value or satisfaction the affected anglers derive from their fishing trips, party/charter revenues would remain unaffected by this action. In an attempt to estimate the potential changes in gross revenues to the party/charter vessel industry in each state, two hypothetical scenarios were considered: A 25-percent reduction, and a 50-percent reduction, in the number of fishing trips that are predicted to be affected by implementation of the management measures in the NE (ME through NC) in 2006.

Total economic losses to party/charter vessels were then estimated by multiplying the number of potentially affected trips in each state in 2006, under the two hypothetical scenarios, by the estimated average access fee paid by party/charter anglers in the NE in 2005. Finally, total economic losses were divided by the number of federally permitted party/charter vessels that participated in the summer flounder, scup, and/or, black sea bass fisheries in 2004 in each state (according to homeport state in the NE database) to obtain an estimate of the average projected gross revenue loss per party/charter vessel in 2006.

The Marine Recreational Fisheries Statistics Survey (MRFSS) data indicate that anglers fished 37.06 million days in 2005 in the NE, and that party/charter anglers accounted for 5.5 percent of the angler fishing days. The number of trips in each state ranged from approximately 32,000 in ME to approximately 619,000 in NJ. The number of trips that targeted summer flounder, scup, and/or black sea bass was identified, as appropriate, for each measure, and the number of

trips that would be impacted by the proposed measures was estimated. Finally, the revenue impacts were estimated by calculating the average fee paid by anglers on party/charter vessels in the NE in 2005 (\$40.27 per angler), and the revenue impacts on individual vessels were estimated. The analysis assumed that angler effort and catch rates in 2006 will be similar to 2005.

The Council noted that this method is likely to result in overestimation of the potential revenue losses that would result from implementation of the proposed coastwide measures in these three fisheries for several reasons. First, the analysis likely overestimates the potential revenue impacts of these measures because some anglers would continue to take party/charter vessel trips, even if the restrictions limit their landings. Also, some anglers may engage in catch and release fishing and/or target other species. It was not possible to estimate the sensitivity of anglers to specific management measures. Second, the universe of party/charter vessels that participate in the fisheries is likely to be even larger than presented in these analyses, as party/charter vessels that do not possess a Federal summer flounder, scup, or black sea bass permit because they fish only in state waters are not represented in the analyses. Considering the large proportion of landings from state waters (more than 91 percent of summer flounder and scup landings in 2005), it is probable that some party/charter vessels fish only in state waters and, thus, do not hold Federal permits for these fisheries. Third, vessels that hold only state permits likely will be fishing under different, potentially less restrictive, recreational measures for summer flounder in state waters, if such program is implemented in the final rule, and for scup in state waters under the Commission's scup conservation equivalency program.

#### **Impacts of Summer Flounder Alternatives**

The proposed action for the summer flounder recreational fishery would limit coastwide catch to approximately 9.29 million lb (4,216 mt) by imposing coastwide Federal measures throughout the EEZ. As described earlier, upon confirmation that the proposed state measures would achieve conservation equivalency, NMFS may waive the permit condition found at § 648.4(b), which requires federally permitted vessels to comply with the more restrictive management measures when state and Federal measures differ. Federally permitted charter/party permit holders and recreational vessels

fishing for summer flounder in the EEZ then would be subject to the recreational fishing measures implemented by the state in which they land summer flounder, rather than the coastwide measures.

The impact of the proposed summer flounder conservation equivalency alternative (in Summer Flounder Alternative 1) among states is likely to be similar to the level of landings reductions that are required of each state. As indicated above, only MA, CT, and NY would be required to reduce summer flounder landings in 2006, relative to their 2005 landings (by 15 percent, 35 percent, and 38 percent, respectively (to be modified via implementation of Addendum XVIII). If the preferred conservation equivalency alternative is effective at achieving the recreational harvest limit, then it is likely to be the only alternative that minimizes adverse economic impacts, to the extent practicable, yet achieves the biological objectives of the FMP. Because states have a choice, it is more rational (and is expected) that the states would adopt conservation equivalent measures that result in fewer adverse economic impacts than the much more restrictive precautionary default measures (i.e., only one fish measuring at least 18 inches (45.7 cm)). Under the precautionary default measures, impacted trips are defined as trips taken in 2005 that landed at least one summer flounder smaller than 18 inches (45.7 cm) or landed more than one summer flounder. The analysis concluded that implementation of precautionary default measures could affect 4.8 percent of the party/charter vessel trips in the NE.

The impacts of the proposed, no-action summer flounder coastwide alternative (Summer Flounder Alternative 2), i.e., a 17-inch (43.2-cm) minimum fish size, a four-fish possession limit, and no closed season, were evaluated using the quantitative method described above. Impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least one summer flounder smaller than 17 inches (43.2 cm), or that landed more than four summer flounder. The analysis concluded that the measures would affect 0.9 percent of the party/charter vessel trips in the NE.

#### **Impacts of Scup Alternatives**

The proposed action for scup would limit coastwide landings to approximately 4.15 million lb (1,884 mt). For Scup Alternative 1 (a 10-inch (25.4-cm) minimum fish size, a 50-fish possession limit, and open seasons of January 1 through February 28, and

September 18 through November 30), the preferred and no-action scup alternative, impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least 1 scup during the proposed closed seasons of March 1 through September 17, and December 1 through December 31. The analysis concluded that the measures would affect 1.2 percent of party/charter vessel trips in the NE.

For the non-preferred Scup Alternative 2 (a 10-inch (25.4-cm) minimum fish size, a 50-fish possession limit, and open seasons of January 1 through February 28, and September 18 through September 30), impacted trips are defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least 1 scup during the periods of March 1 through September 17, and October 1 through December 31. The analysis concluded that the measures would affect 2 percent of party/charter vessel trips in the NE.

For the non-preferred Scup Alternative 3 (a 10-inch (25.4-cm) minimum fish size, a 50-fish possession limit, and open seasons of January 1 through February 28, and September 3 through November 30), impacted trips are defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least 1 scup during the period March 1 through September 2, and December 1 through December 31. The analysis concluded that the measures in this alternative would affect 0.9 percent of party/charter vessel trips in the NE.

#### **Impacts of Black Sea Bass Alternatives**

The proposed action for black sea bass would limit coastwide landings to 3.99 million lb (1,810 mt). For the Black Sea Bass Alternative 1 (a 12-inch (30.5-cm) minimum size, a 25-fish possession limit, and an open season of January 1 through December 31), the preferred and no-action alternative, impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 black sea bass smaller than 12 inches (30.5 cm), or that landed more than 25 black sea bass. The analysis concluded that the measures would affect 0.1 percent of party/charter vessel trips in the NE.

For the non-preferred Black Sea Bass Alternative 2 (an 11.5-inch (29.2-cm) minimum size, a 25-fish possession

limit, and an open season of January 1 through December 31), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 black sea bass smaller than 11.5 inches (29.2 cm), or that landed more than 25 black sea bass. The analysis concluded that the measures would affect less than 0.1 percent of party/charter vessel trips in the NE.

For the non-preferred Black Sea Bass Alternative 3 (a 12.5-inch (31.8-cm) minimum size, a 25-fish possession limit, and an open season of January 1 through December 31), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 black sea bass smaller than 12.5 inches (31.8 cm), or that landed more than 25 black sea bass. The analysis concluded that the measures would affect 0.2 percent of party/charter trips in the NE.

#### **Combined Impacts of Summer Flounder, Scup, and Black Sea Bass Alternatives**

Since the management measures under Summer Flounder Alternative 1 (i.e., conservation equivalency) have yet to be adopted, the effort effects of this alternative could not be analyzed in conjunction with the alternatives proposed for scup and black sea bass. The percent of total party/charter vessel trips in the NE that were estimated to be affected by the other alternatives ranged from a low of 1.9 percent for the combination of measures proposed under Summer Flounder Alternative 2, Scup Alternative 3, and Black Sea Bass Alternative 2; to a high of 7 percent for the precautionary default measures for summer flounder (considered in Summer Flounder Alternative 1) combined with the measures proposed under Scup Alternative 2 and Black Sea Bass Alternative 3.

Potential revenue losses in 2006 could differ for party/charter vessels that land more than one of the regulated species. The cumulative maximum gross revenue loss per vessel varies by the combination of permits held and by state. All 18 potential combinations of management alternatives for summer flounder, scup, and black sea bass are predicted to affect party/charter vessel revenues to some extent in all of the NE coastal states. Although potential losses were estimated for party/charter vessels operating out of ME and NH, these results are suppressed for confidentiality purposes. Average party/charter losses for federally permitted vessels operating in the remaining states are estimated to vary considerably across the 18 combinations of

alternatives. For instance, in NY, average losses are predicted to range from \$1,582 per vessel under the combined effects of Summer Flounder Alternative 2, Scup Alternative 3, and Black Sea Bass Alternative 2, to \$6,924 per vessel under the combined effects of the summer flounder precautionary default (considered in Summer Flounder Alternative 1), Scup Alternative 2, and Black Sea Bass Alternative 3, assuming a 25-percent reduction in effort, as described above.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

Dated: March 22, 2006.

**James W. Balsiger,**

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[FR Doc. E6-4403 Filed 3-24-06; 8:45 am]

BILLING CODE 3510-22-S

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 679**

[Docket No. 060307059-6059-01; I.D. 030106B]

RIN 0648-AU15

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Seasonal Closure of Chiniak Gully in the Gulf of Alaska to Trawl Fishing**

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

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

**SUMMARY:** NMFS proposes to close the Chiniak Gully region on the east side of Kodiak Island in the Gulf of Alaska (GOA) to all commercial trawl fishing and testing of trawl gear from August 1 to a date no later than September 20 from 2006 through 2010. NMFS plans to conduct controlled experiments on the effects of commercial fishing on pollock distribution and abundance, as part of a comprehensive investigation of Steller sea lion (SSL) and commercial fishery interactions. This action is needed to support the proposed experimental design by prohibiting commercial trawl fishing in the control site of Chiniak Gully. The proposed research could improve information on pollock movements and on the potential impacts of commercial pollock harvests