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**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03-118, adopted May 8, 2003, and released May 15, 2003. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

### List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

#### § 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Montana is amended by removing DTV channel 15 and adding DTV channel 5 at Butte.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Division, Media Bureau.*

[FR Doc. 03-12685 Filed 5-20-03; 8:45 am]

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### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

**[Docket No. 030509120-3120-01; I.D. 033103D]**

**RIN 0648-AQ32**

#### Fisheries of the Northeastern United States; Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2003

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

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

**SUMMARY:** NMFS proposes recreational measures for the 2003 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 on or before June 5, 2003.

**ADDRESSES:** Comments on the proposed recreational specifications should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region,

NMFS, One Blackburn Drive, Gloucester, MA 01930-2298.

Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committee and of the Environmental Assessment, Regulatory Impact Review, 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 Street, Dover, DE 19901-6790. The EA/RIR/IRFA is also accessible via the Internet at <http://www.nero.nmfs.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Sarah McLaughlin, Fishery Policy Analyst, (978) 281-9279, fax (978) 281-9135, e-mail [sarah.mclaughlin@noaa.gov](mailto:sarah.mclaughlin@noaa.gov).

#### 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 (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 FMP and its implementing regulations found at 50 CFR part 648, subparts A, 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 coast, under the Commission's Interstate Summer Flounder, Scup, and Black Sea Bass FMP. The Federal regulations govern vessels fishing in the EEZ, as well as vessels possessing a Federal fisheries permit, regardless of where they fish.

The Council's 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 Council's 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 2003 summer flounder, scup, and black sea bass fisheries were published on January 2, 2003 (68 FR 60). These specifications were determined to be consistent with the 2003 target fishing mortality rate (F) (for summer flounder) and target exploitation rates (for scup and black sea bass). The 2003 coastwide recreational harvest limits are 9.28 million lb (4,209 mt) for summer flounder, 4.01 million lb (1,819 mt) for scup, and 3.43 million lb (1,557 mt) for black sea bass. The specifications do not establish recreational measures, since final recreational catch data were not available when the Council made its recreational harvest limit recommendation to NMFS.

All minimum fish sizes discussed below are total length (TL) 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.

### Summer Flounder

The 2003 summer flounder recreational harvest limit is 9.28 million lb (4,209 mt), 4.5 percent less than the 2002 recreational harvest limit. However, 2002 recreational summer flounder landings are projected to be 8.13 million lb (3,688 mt), 12 percent less than the 2002 recreational harvest limit. Assuming the same level of fishing effort in 2003, no coastwide reductions in landings would be

required for summer flounder. However, as described below, under the Council-recommended conservation equivalency measures, Virginia (VA) would be required to reduce summer flounder landings in 2003 (by 11 percent).

NMFS implemented Framework Adjustment 2 to the FMP in July 2001 (66 FR 36208). This framework implemented a process that makes conservation equivalency a management option for the summer flounder recreational fishery. Conservation equivalency allows each state to establish its own recreational management measures (possession limits, fish size limits, and fishing seasons), as long as the combined effect of all of the states' management measures achieve the same level of conservation as would Federal coastwide measures developed to achieve the recreational harvest limit, if implemented by all of the states (i.e., both would have equivalent Fs). Conservation equivalency was implemented for the 2002 summer flounder recreational fishery.

The Council and Board recommend annually either conservation equivalency (whereby states develop state-specific measures) or coastwide management measures (whereby all states adopt the same measures as the Federal measures) for the summer flounder recreational fishery to ensure that the recreational harvest limit will not be exceeded. If the Council and the Board recommend conservation equivalency, they must also recommend coastwide management measures that would be implemented if, following NMFS review and public comment, conservation equivalency is not implemented in the final rule. In addition, the Council and the Board must recommend precautionary default measures that would apply in states that do not implement conservation equivalent measures, or for which management proposals are not approved by the Board. 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 2002, the Council and Board voted to recommend conservation equivalency to achieve the 2003 recreational harvest limit. Additionally, the Board agreed to allow states that landed less than their 2002 target to liberalize regulations for 2003. The precautionary default measures specified by the Council and Board are the same as specified for 2002 and consist of an 18-inch (45.72-cm) minimum fish size, a possession limit of one fish per person, and no closed

season. The precautionary default alternative would reduce landings by 67 percent, assuming the measures are implemented by all states. Because the precautionary default measures must be restrictive enough to achieve the necessary reductions in the state requiring the greatest reductions, application of the precautionary default would achieve higher than necessary reductions in most states. State-specific reductions would range from 41 percent in Delaware (DE) to 88 percent in NC.

Finally, the coastwide alternative recommended by the Council and Board to be implemented in the EEZ if conservation equivalency is not implemented, consists of a 17-inch (43.18-cm) minimum fish size, a possession limit of four fish per person, and no closed season. The coastwide alternative would reduce recreational landings by 32 percent, based on 2001 data, assuming the coastwide regulations are implemented by all states. State-specific reductions would range from 0 percent in DE to 63 percent in NC.

The Commission has established conservation equivalency guidelines that require each state, using state-specific equivalency tables, to determine and implement an appropriate possession limit, size limit, and closed season to achieve the landings reduction necessary for each state. The state-specific tables are adjusted to account for the past effectiveness of the regulations in each state. State-specific reductions associated with the 2003 coastwide recreational harvest limit of 9.28 million lb (4,209 mt) are based on the number of fish landed in 1998 (because 1998 is the last year that recreational summer flounder regulations were consistent along the coast), and the number of fish projected to have been landed in 2002. Recreational landings in 1998 were 6.978 million fish, coastwide. Based on the mean weight of landed fish for 2000, 2001, and 2002, the harvest limit for 2003 was converted to numbers of fish, i.e., 4.122 million fish. Landings projections for 2002 indicate that VA is the only state required to reduce summer flounder landings (by 11 percent) in 2003. States other than VA (from Maine (ME) to NC) do not require any reductions in recreational summer flounder landings if their current regulations are maintained.

The Board required each state to submit its conservation equivalency proposal to the Commission by January 15, 2003. The Commission's Summer Flounder Technical Committee has since evaluated the proposals and advised the Board of each proposal's

consistency with respect to achieving the coastwide recreational harvest limit. After the Technical Committee evaluation, the Board met on February 25, 2003, to approve or disapprove each state's proposal.

The Commission invited public participation in its review process by holding public meetings and offering the public the opportunity to comment on the state proposals. During the comment period, the Commission will notify NMFS as to which state proposals have been approved or disapproved. NMFS will provide this information in the final rule, establishing the 2003 recreational measures for these fisheries.

If, at the final rule stage, the Commission recommends, and NMFS accepts, conservation equivalency, NMFS would waive the Federal recreational measures for federally permitted charter/party permit holders and recreational vessels fishing for summer flounder in the EEZ. Those vessels would be required to abide by the requirements enacted by the state in which they land summer flounder. States that do not submit proposals, or for which proposals were disapproved by the Commission, would be required by the Commission to adopt the precautionary default measures. States assigned the precautionary default measures would be allowed to resubmit revised management measures. The Commission would notify NMFS of any resubmitted proposals that were approved after publication of the final rule implementing the recreational specifications. NMFS then would publish a notice in the **Federal Register** to notify the public of any changes in the state's management measures.

### Scup

The 2003 scup recreational harvest limit is 4.01 million lb (1,819 mt), 48 percent more than the recreational harvest limit for 2002. The 2002 recreational scup landings are projected to have been 3.76 million lb (1,706 mt). As a result of the increase in the harvest limit, recreational scup landings can increase by 7 percent in 2003, relative to the projected landings for 2002. Although it appears that constraints on the fishery could be relaxed, any relaxation should be balanced with the consideration of stock status. The most recent assessment indicates that the scup biomass increased in 2002 and is likely to increase again in 2003. Survey information indicates that regulations may have protected a large 1997 year class and also indicate that strong year classes were produced in 1999 through 2001. If the 1999, 2000, and 2001 year classes are large, and mortality of

undersized fish is reduced, substantial biomass could be added to the stock by 2003 and availability of legal-sized fish could increase. Because fewer fish were landed by in the recreational fishery in 2002 than in 2001, the Council decided that the 2001 landings should be used as a basis to determine the appropriate possession and size limits to constrain the 2003 landings to the recreational harvest limit. Additionally, to evaluate properly the required coastwide measures, it is necessary first to extrapolate the 2001 landings to estimate the level of landings that would have resulted if the states had not implemented any scup fishery closures. As a result, to achieve the 2003 harvest limit, a 27-percent reduction from the extrapolated 2001 level of landings is necessary.

The 2003 scup recreational fishery will be managed under separate regulations for state and Federal waters; the Federal measures would apply only to party/charter boats with Federal permits. In Federal waters, the Council recommended 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 July 1 through November 30. The Council has estimated that these measures would reduce recreational scup landings (from the extrapolated 2001 level) by 27 percent, assuming that regulations will be implemented by all of the states. For comparative purposes, the current (status quo) scup recreational measures in the EEZ are a 10-inch (25.4-cm) minimum fish size, a 20-fish possession limit and open seasons of January 1 through February 28, and July 1 through October 2. NMFS has reviewed the Council's analyses of these measures and is proposing the Council's preferred alternative without modification.

The Board postponed making a final decision on state measures for scup at its December 2002 meeting and advised its staff to prepare an addendum to the Commission's Interstate FMP that would provide the states with a mechanism for effectively managing their 2003 recreational scup fisheries on a state-by-state basis. A prior addendum that addressed the 2002 recreational fishery expired at the end of 2002. On February 25, 2003, the Board approved Addendum IX to the Commission's Interstate FMP (Addendum IX), which allows states from Massachusetts (MA) through New York (NY) to develop either regional or state-specific management measures. For New Jersey (NJ), which has limited recreational scup landings data, the Board approved a 10-inch (25.4-cm) minimum size, a

50-fish possession limit, and an open season of July 1 through December 31. Due to low scup landings in the southern range of the species, the Board approved a 10-inch (25.4-cm) minimum fish size, a 50-fish possession limit, and no closed season for DE, Maryland (MD), VA, and NC. The Monitoring Committee has recommended that, should the Board implement conservation equivalency for the 2003 scup fishery, states from MA through NY adopt a 10-inch minimum fish size and a 50-fish possession limit, and achieve the necessary reductions through state-specific season modification. Although MA is permitted a 22-percent increase in landings, it has chosen to maintain its 2002 regulations for the 2003 season. Because the Federal FMP does not contain provisions for conservation equivalency, and states may adopt their own unique measures under Addendum IX, it is likely that state and Federal recreational scup measures will differ for the 2003 season.

### Black Sea Bass

The 2003 black sea bass recreational harvest limit is 3.43 million lb (1,557 mt), the same as that implemented in 2002. However, the 2002 recreational black sea bass landings are projected to be 4.4 million lb (1,996 mt). After extrapolating the 2002 landings to estimate the level of landings that would have been expected if the states had not implemented any seasonal black sea bass fishery closures, the Council determined that the extrapolated 2002 landings would have to be reduced by 27 percent to achieve the 2003 harvest limit.

The Council and Board recommended the following measures for the 2003 coastwide recreational black sea bass fishery: A 12-inch minimum fish size, a 25-fish possession limit, and open seasons of January 1 through September 1, and September 16 through November 30. These measures are expected to provide a 27-percent reduction in recreational black sea bass landings (from the 2002 level). For comparative purposes, the current (status quo) black sea bass regulations include an 11.5-inch (29.21-cm) minimum fish size, a 25-fish possession limit, and no closed season. NMFS has reviewed the Council's analyses of these measures and is proposing the Council's preferred alternative without modification.

### Classification

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

The Council prepared an IRFA that 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 in the preamble to this rule. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. A copy of the complete IRFA is available from the Council (see **ADDRESSES**). A summary of the analysis follows.

The proposed action could affect any recreational angler who fishes for summer flounder, scup, or black sea bass. However, this summary of 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 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 other recreational anglers are likely to be impacted, they are not considered small entities, nor is there a permit requirement to participate in these fisheries.

In the EA, the no action alternative for each species is defined as the continuation of the management measures implemented for the 2002 fishing season. The Council did not analyze an alternative combining the status quo measures in place for all three species. In consideration of the Council-recommended recreational harvest limits established for the 2003 fishing year, implementation of the same recreational measures established for the 2002 fishing year would be inconsistent with the goals and objectives of the FMP and its implementing regulations, and, because it could result in overfishing of the black sea bass fishery, it also would be inconsistent with National Standard 1 of the Magnuson-Stevens Act. Therefore, the no action alternative was not considered to be a reasonable alternative to the preferred action and its collective impacts were not analyzed in the EA/RIR/IRFA. The no action measure for summer flounder was analyzed in Alternative 1, in combination with preferred measures for scup and black sea bass. The no action measures for scup and black sea bass were considered as part of Alternative 2, in combination with the non-preferred coastwide measure for summer flounder, i.e., the measure that would be implemented if conservation equivalency is not implemented in the final rule.

The Council estimated that the proposed measures could affect any of the 760 vessels possessing a Federal charter/party permit for summer

flounder, scup, and/or black sea bass in 2001, the most recent year for which complete permit data are available. Only 368 of these vessels reported active participation in the recreational summer flounder, scup, and/or black sea bass fisheries in 2001.

The 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' Regulatory Flexibility Act 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. 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.

Data from the Marine Recreational Fisheries Statistical Survey (MRFSS) were used to project the number of recreational party/charter vessel trips made in each state. The MRFSS data indicate that anglers fished 30.96 million days in 2002 in the Northeast Region (ME through NC). In the Northeast Region, party/charter anglers comprised about 5 percent of the angler fishing days, and party/charter anglers fishing in MA, NY, NJ, MD, and NC comprised 82 percent of the total projected party/charter effort. The number of trips in each state ranged from approximately 365,500 in NJ to approximately 12,700 trips in ME. 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 Northeast Region in 2002 (\$40.72 per angler), and the revenue impacts on individual vessels were estimated. The analysis assumed that angler effort and catch rates in 2003 will be similar to 2002.

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 may engage in catch and release fishing, and others may 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 assessments. Considering the large proportion of landings from state waters (approximately 92 percent of summer flounder, 94 percent of scup landings, and 19 percent of black sea bass landings in 2001), 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 and scup in state waters under the Commission's conservation equivalency programs. For all of these reasons, actual party/charter losses may be less than the amounts shown in this assessment.

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

The proposed action for the summer flounder recreational fishery would limit coastwide catch to 9.28 million lb (4,209 mt) and reduce landings by at least 4.5 percent, compared to 2002, by either deferring management to the states or imposing coastwide Federal measures throughout the EEZ.

There is very little information available to estimate empirically how sensitive the affected party/charter boat anglers might be to the proposed fishing regulations. It is possible that the proposed management measures could restrict the recreational fishery for 2003 and cause a decrease in satisfaction that recreational anglers experience (i.e., via a reduced possession limit, larger minimum fish size, or closed season) and/or demand for party/charter trips. Due to lack of data on angler satisfaction, these effects cannot be quantified.

The impact of the proposed summer flounder conservation equivalency alternative among states is likely to be similar to the level of landings reductions that are required of each state. Landings projections for 2002

indicate that VA is the only state required to reduce summer flounder landings (by 11 percent) in 2003. States other than VA (from ME to NC) do not require any reductions in recreational summer flounder landings if their current regulations are maintained. 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 economic impacts, to the extent practicable, yet achieves the biological objectives of the FMP. Because states have a choice, it is more rational for the states to adopt conservation equivalent measures that result in fewer adverse economic impacts than to acquiesce to the much more restrictive measures contained in the precautionary default alternative.

The impacts of the non-preferred summer flounder coastwide alternative (in Alternative 2), which proposes a 17-inch (43.2-cm) minimum fish size, a possession limit of four fish per person, 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 2002 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 1 percent or less of the party/charter trips in most states, with state revenue losses identified for MA (\$927), Rhode Island (RI) (\$15,850), NY (\$155,636), NJ (\$22,208), DE (\$570), MD (\$570), VA (\$7,362), and NC (\$161). (These figures are for all vessels operating in each state rather than for each vessel.) No state revenue losses were identified for ME, New Hampshire (NH), or Connecticut (CT).

The average maximum gross revenue loss per party/charter vessel was estimated to be \$9 in MA, \$634 in RI, \$2,993 in NY, \$347 in NJ, \$285 in DE, \$190 in MD, \$409 in VA, and \$23 in NC. For the reasons noted above (alternative species, catch and release fishing, etc.), it is very likely that some anglers would continue to take party/charter vessel trips, even if the restrictions limit their landings. Therefore, this method is likely to overestimate the potential revenue impacts of the proposed measures. In addition, an average of 8 percent of recreational summer flounder landings were derived from the EEZ in 2001. Federal coastwide measures would apply to federally permitted vessels wherever they fish. However, the states could potentially implement different recreational measures for summer flounder.

Precautionary default measures are defined as measures that would achieve at least the overall required reduction in landings for each state. The precautionary default measures specified by the Council and Board (in Alternative 3) consists of an 18-inch (45.72-cm) minimum fish size, a possession limit of one fish per person, and no closed season.

The precautionary default measures would reduce state specific landings by a range of 41 percent (DE) to 88 percent (NC). As specified by Framework 2 to the Federal FMP, states that fail to implement conservation equivalent measures would be required to implement precautionary default measures. The state-specific landings reductions associated with the precautionary default measures are substantially higher than the reductions that would be implemented using conservation equivalency. As such, it is expected that states will avoid the impacts of precautionary approach measures by establishing conservation equivalent management measures. Therefore, the precautionary default provision that is included in the conservation equivalency proposal was not analyzed as a separate provision.

#### Impacts of Scup Alternatives

The proposed action for scup would limit coastwide landings to 4.01 million lb (1,819 mt) and reduce landings by at least 27 percent compared to 2001.

For the preferred scup alternative (in Alternative 1), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2002 that landed at least one scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least one scup during the proposed closed seasons of March 1 through June 30, and December 1 through December 31. The analysis concluded that the measures would affect 10 percent of the party/charter trips in MA and 1 percent or less of the party/charter trips in five states, with statewide revenue losses identified for MA (\$421,057), RI (\$2,324), NY (\$1,829), NJ (\$6,475), MD (\$25,450), and NC (\$8,064).

The average maximum gross revenue loss per party/charter vessel associated with the preferred scup alternative was estimated to be \$8,593 in MA, \$166 in RI, \$59 in NY, \$185 in NJ, \$25,450 in MD, and \$2,688 in NC.

For the scup no action alternative (in Alternative 2), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2002 that landed at least one scup smaller than 10 inches (25.4 cm), that landed more than 20 scup, or that landed at least one scup

during the periods of March 1 through June 30, and October 3 through December 31. The analysis concluded that the measures would affect 11 percent of angler trips taken aboard party/charter boats in MA, 4 percent in RI, 5 percent in NY, and less than 1 percent in NJ, DE, MD, and NC, with statewide revenue losses identified for MA (\$486,423), RI (\$55,664), NY (\$702,429), NJ (\$67,060), MD (\$25,450), and NC (\$8,064). No state revenue losses were identified for ME, NH, CT, DE, or VA.

The average maximum gross revenue loss per party/charter vessel associated with this alternative was estimated to be \$9,927 in MA, \$3,976 in RI, \$22,659 in NY, \$1,916 in NJ, \$25,450 in MD, and \$2,688 in NC.

For the scup measures considered in Alternative 3, impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2002 that landed at least one scup smaller than 10 inches, that landed more than 50 scup, or that landed at least one scup during the period of March 1 through July 13. The analysis concluded that the measures in this alternative would affect 11 percent of the party/charter trips in MA and 1 percent or less of the party/charter trips in most states, with statewide revenue losses identified for MA (\$469,518), RI (\$9,576), NY (\$81,902), NJ (\$19,880), MD (\$25,450), and NC (\$8,064). No state revenue losses were identified for ME, NH, CT, DE, or VA.

The average maximum gross revenue loss per party/charter vessel associated with this alternative was estimated to be \$9,582 in MA, \$684 in RI, \$2,642 in NY, \$568 in NJ, \$25,450 in MD, and \$2,688 in NC.

#### Impacts of Black Sea Bass Alternatives

The proposed action for black sea bass would limit coastwide landings to 3.43 million lb (1,557 mt) and reduce landings by at least 27 percent compared to 2002.

For the preferred black sea bass alternative (in Alternative 1), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2002 that landed at least one black sea bass smaller than 12 inches (30.48 cm), that landed more than 25 black sea bass, or that landed at least one black sea bass during the proposed closed seasons of September 2 through September 15, and December 1 through December 31. The analysis concluded that the measures would affect 3 percent of the party/charter trips in NJ, 4 percent in DE, and 1 percent or less in most states, with statewide revenue losses identified for MA (\$1,805), RI

(\$5,404), CT (\$368), NY (\$20,332), NJ (\$441,702), DE (\$89,544), MD (\$41,331), VA (\$19,418), and NC (\$364). No state revenue losses were identified for ME or NH.

The average maximum gross revenue loss per party/charter vessel associated with the proposed black sea bass alternative was estimated to be \$19 in MA, \$193 in RI, \$46 in CT, \$442 in NY, \$8,334 in NJ, \$44,772 in DE, \$13,777 in MD, \$1,022 in VA, and \$52 in NC.

For the non-preferred black sea bass measures considered in Alternative 2, impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2002 that landed at least one black sea bass smaller than 11.5 inches (29.21 cm), or that landed more than 25 black sea bass. The analysis concluded that the proposed alternative would affect 3 percent of the party/charter trips in DE, 2 percent in NJ, and 1 percent or less in most states, with statewide revenue losses identified for RI (\$1,960), CT (\$368), NJ (\$248,570), DE (\$82,988), MD (\$16,329), VA (\$21,261), and NC (\$119). No state revenue losses were identified for ME, NH, MA, or NY.

The average maximum gross revenue loss per party/charter vessel associated with this alternative was estimated to be \$70 in RI, \$46 in CT, \$4,690 in NJ, \$41,494 in DE, \$5,443 in MD, \$1,119 in VA, and \$17 in NC.

For the non-preferred black sea bass measures considered in Alternative 3, impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2002 that landed at least one black sea bass smaller than 12.5 inches (31.75 cm) or that landed more than 25 black sea bass. The analysis concluded that the measures would affect approximately 5 percent of the party/charter trips in DE, 3 percent in NJ, and 1 percent or less in most states, with statewide revenue losses identified for RI (\$1,960), CT (\$368), NY (\$3,220), NJ (\$483,095), DE (\$125,132), MD (\$40,395), VA (\$29,602), and NC (\$364). No state revenue losses were identified for ME, NH, or MA.

The average maximum gross revenue loss per party/charter vessel associated with this alternative was estimated to be \$70 in RI, \$46 in CT, \$70 in NY, \$9,115 in NJ, \$62,566 in DE, \$13,465 in MD, \$1,558 in VA, and \$52 in NC.

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

Potential revenue losses in 2003 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. In RI, for example, revenue losses could reach \$993 for vessels that land all three species in 2003, compared to expected revenues for 2002. However, in MD, a vessel that lands all three species could potentially lose up to a maximum of \$39,417 in 2003. On average, the largest potential losses were projected for party/charter vessels operating out of MA, NJ, DE, and MD in 2003.

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

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

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 14, 2003.

**John Oliver,**

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

For the reasons set out in the preamble, 50 CFR part 648 is 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 § 648.105, the first sentence of paragraph (a) is revised to read as follows:

#### § 648.105 Possession restrictions.

(a) Unless otherwise specified pursuant to § 648.107, no person shall possess more than four summer flounder in, or harvested from, the EEZ, unless that person is the owner or operator of a fishing vessel issued a summer flounder moratorium permit, or is issued a summer flounder dealer permit. \*\*\*

\* \* \* \* \*

3. In § 648.107, the first sentence of paragraph (a) introductory text is revised to read as follows:

#### § 648.107 Conservation equivalent measures for the summer flounder fishery.

(a) For 2003, the Regional Administrator has determined that conservation equivalent measures shall be implemented by the states for the recreational summer flounder fishery. \*\*\*

\* \* \* \* \*

4. In § 648.122, paragraph (g) is revised to read as follows:

#### § 648.122 Time and area restrictions.

\* \* \* \* \*

(g) *Time restrictions.* Vessels that are not eligible for a moratorium permit under § 648.4(a)(6), and fishermen subject to the possession limit, may not possess scup, except from January 1 through February 28 and from July 1 through November 30. This time period may be adjusted pursuant to the procedures in § 648.120.

5. In § 648.125, the first sentence of paragraph (a) is revised to read as follows:

#### § 648.125 Possession limit.

(a) No person shall possess more than 50 scup in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a scup moratorium permit, or is issued a scup dealer permit.\*\*\*

\* \* \* \* \*

6. Section 648.142 is revised to read as follows:

#### § 648.142 Time restrictions.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(7), and fishermen subject to the possession limit, may not possess black sea bass, except from January 1 through September 1 and September 16 through November 30. This time period may be adjusted pursuant to the procedures in § 648.140.

7. In § 648.143, paragraph (b) is revised to read as follows:

#### § 648.143 Minimum sizes.

\* \* \* \* \*

(b) The minimum size for black sea bass is 12 inches (30.48 cm) TL for all vessels that do not qualify for a moratorium permit, and for party boats holding a moratorium permit, if fishing with passengers for hire or carrying more than five crew members, and for charter boats holding a moratorium permit, if fishing with more than three crew members. The minimum size may be adjusted for recreational vessels pursuant to the procedures in § 648.140.

\* \* \* \* \*

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