

**PART 221—[AMENDED]**

■ 1. The authority citation for part 221 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

**Appendix C to Part 221—[Amended]**

■ 2. Footnote 1 to appendix C of part 221 is amended by removing the numerical amount "\$20,000" and adding in its place the numerical amount "\$27,000".

**PART 235—[AMENDED]**

■ 3. The authority citation for part 235 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

**Appendix A to Part 235—[Amended]**

■ 4. Footnote 1 to appendix A of part 235 is amended by removing the numerical amount "\$20,000" and adding in its place the numerical amount "\$27,000".

Issued in Washington, DC, on October 22, 2004.

**Betty Monroe,**

*Acting Administrator, Federal Railroad Administration.*

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**BILLING CODE 4910-06-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622**

[I.D. 101904A]

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Recreational Red Snapper Component**

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

**ACTION:** Closure of recreational fishery for red snapper.

**SUMMARY:** NMFS closes the recreational fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has determined that the annual recreational quota of 4.47 million lb (2.03 million kg) will be reached on October 31, 2004. This closure is necessary to protect the red snapper resource.

**DATES:** Closure is effective 12:01 a.m., local time, November 1, 2004, until

12:01 a.m., local time, on April 21, 2005.

**FOR FURTHER INFORMATION CONTACT:** Phil Steele, telephone 727-570-5784, fax 727-570-5583, e-mail *Phil.Steele@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. Those regulations set the recreational quota for red snapper in the Gulf of Mexico at 4.47 million lb (2.03 million kg) for the current fishing year, January 1 through December 31, 2004.

Under 50 CFR 622.43(a), NMFS is required to close the recreational fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by filing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that the recreational quota of 4.47 million lb (2.03 million kg) for red snapper will be reached by October 31, 2004. Accordingly, the recreational fishery in the EEZ in the Gulf of Mexico for red snapper will remain closed until 12:01 a.m., local time, on April 21, 2005.

During the closure, the bag and possession limits specified in 50 CFR 622.39(b)(1)(iii) and (b)(2) respectively, are zero. Also, in the Gulf of Mexico, on board a vessel for which a commercial permit for Gulf reef fish has been issued, the bag and possession limits for red snapper are zero, without regard to where such red snapper were harvested.

**Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to close the fishery constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C 553(b)(3)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure. Allowing prior notice and opportunity to comment is contrary to the public interest because it requires time, thus delaying closure of

the fishery and increasing the chance of exceeding the quota. Similarly, there is a need to implement these measures in a timely fashion to prevent an overrun of the recreational quota of Gulf red snapper, given the capacity of the fishing fleet to harvest the quota quickly. Any delay in implementing this action would be impractical and contrary to the Magnuson-Stevens Act, the FMP, and the public interest. Therefore, NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days.

Accordingly, under 5 U.S.C. 553(d)(3), a delay in the effective date is waived.

This action is authorized by 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: October 21, 2004.

**Dean Swanson,**

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

[FR Doc. 04-24105 Filed 10-25-04; 4:26 pm]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[Docket No. 040804226-4278-02; I.D. 071904C]

**RIN 0648-AR50**

**50 CFR Part 648****Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Framework Adjustment 5**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement measures contained in Framework Adjustment 5 (Framework 5) to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) that would allow for specification of annual Total Allowable Landings (TAL) for multiple years. The intent is to provide flexibility and efficiency to the management of the species. In addition, this final rule includes several administrative modifications to the existing regulations for clarification purposes.

**DATES:** This rule is effective November 29, 2004.

**ADDRESSES:** Copies of Framework 5, the Regulatory Impact Review (RIR), Initial Regulatory Flexibility Analysis (IRFA),

and other supporting documents are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901-6790. The RIR/IRFA is also accessible via the Internet at <http://www.nero.nmfs.gov>. The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, public comments and responses, and the summary of impacts and alternatives contained in this final rule. Copies of the small entity compliance guide are available from Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin, Fishery Policy Analyst, (978) 281-9279, fax (978) 281-9135.

**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 FMP 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. Implementing regulations for these fisheries are found at 50 CFR part 648, subparts A, G (summer flounder), H (scup), and I (black sea bass).

The proposed rule to implement Framework 5 was published on August 30, 2004 (69 FR 52847). A complete discussion of the development of Framework 5 appeared in the preamble of the proposed rule and is not repeated here. The current regulations outline an annual process for specifying the TALs for the summer flounder, scup, and black sea bass commercial and recreational fisheries, as well as other management measures (e.g., mesh requirements, minimum fish sizes, gear restrictions, possession restrictions, and area restrictions) for these fisheries.

Framework 5 allows for specification of TALs for the summer flounder, scup, and/or black sea bass fisheries in any given year for the following 1, 2, or 3

years. NMFS would not be obligated to specify multi-year TALs, but would be able to do so, depending on the information available and the status of the fisheries.

The environmental and regulatory review procedures currently required under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), National Environmental Policy Act, and other applicable law will be conducted and documented during the year in which the multi-year TAL specifications are set. The analyses will consider impacts throughout the time span for which specifications are set (i.e., 1 to 3 years). TALs would not have to be constant from year to year within the multi-year specifications, but would instead be based upon expectations of future stock conditions as indicated by the best scientific information available at the time the multi-year specifications are set.

Annual review of updated information on the fisheries by the Council's Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and the Council would not be required during the period of multi-year specifications. As such, adjustments to the TALs for years 2 and/or 3 would not occur once the multi-year specifications are set. Given the absence of an annual review TAL adjustment process, environmental impact evaluation in the specification setting year would have to consider thoroughly the uncertainty associated with projected estimates of stock size in the 2- to 3-year time horizon. Accordingly, Council recommendations for multi-year TALs would be expected to be appropriately conservative in order to reflect this uncertainty. Although the Council's process for setting multi-year TALs would occur prior to the first year that the specifications would be in place, with no requirement to review the specifications prior to the second and/or third years, NMFS will continue to publish a proposed and final rule each year, notifying the public of the commercial quotas and recreational harvest limits. While the Council may set the TALs for multiple years, the actual quotas available to the fisheries in any one year would be a function of the specified TALs, as reduced to account for any quota overages in previous years and to account for research set-aside (RSA) allocations set by the Council for the upcoming fishing year. Quota overages cannot be determined beforehand, and RSA allocations are set based on research proposals submitted, reviewed, and selected on an annual basis. NMFS will

also continue to issue inseason actions, as necessary, to adjust commercial quotas based on updated landings information, to close a fishery or season when a quota is projected to be reached, and/or to roll over available scup quota from the Winter I period to the Winter II period, as already established in the FMP.

**Need for Clarification**

This final rule also makes several administrative changes to other aspects of the regulations governing the summer flounder, scup, and black sea bass fisheries, which were set out in the proposed rule (69 FR 52847, August 30, 2004), to: (1) Reduce the application burden and enrollment period for a summer flounder small mesh exemption area Letter of Authorization (LOA); (2) include the commercial summer flounder fishery in the list of fisheries for which an operator permit is required; and (3) clarify the scup and black sea bass regulations such that RSA quota may be established for between 0 and 3 percent of TAL. A further explanation of these regulatory changes appears in the Classification section of this preamble.

**Comments and Responses**

Two comment letters were received, via e-mail, regarding the proposed rule.

*Comment 1:* One commenter did not specifically address the proposed action, but rather indicated general support for marine protected areas, reduction of commercial quotas in general, and better enforcement of fisheries regulations.

*Response:* Framework 5 is intended to address the process by which TALs are specified. In addition, this rule makes minor administrative changes to the regulations for clarification purposes. While NMFS acknowledges the importance of the issues raised by the commenter, this rule is not the proper mechanism to address these general issues.

*Comment 2:* The other commenter indicated a preference for the non-preferred alternative that would allow the setting of specifications for up to 3 years, but would require an annual review by the Council's Monitoring Committees. The commenter took issue with the characterization that the proposed action would benefit user groups by providing greater stability and dependability. This commenter also expressed concern over the potential for more conservative TALs set under this program to result in more restrictive management measures than are currently in place for the recreational fishing sector, with the risk that these

more restrictive measures would cause economic harm to this sector.

*Response:* The absence of an annual review process by the Council for TALs in years 2 and 3 may increase the risk that harvest at specified TALs in a given year would exceed appropriate fishing mortality rates for the management units. This may occur if population biomass was to deviate substantially from projection estimates generated during the specification setting year. Conversely, population projections may underestimate stock size, which would lead to harvest below allowable levels. Although the provision for an annual review reduces the risk of negative impacts to the fishery resources, it would also reduce administrative efficiency by increasing the chance that a previous specified TAL would be modified even for de minimus changes in TAL. The risks associated with these potential outcomes would be carefully considered by the Council when determining the appropriate TALs for years two and three in the specification setting year. If new information indicates that a modification to the multiple-year TAL is necessary, NMFS could initiate rulemaking required to make such modifications.

While NMFS acknowledges that the implementation of management measures such as recreational possession limits and fishing seasons will continue to be subject to annual review of the best available information on landings for the previous year, NMFS maintains that the establishment of multi-year TALs should provide greater regulatory consistency and predictability to the commercial and recreational fishing sectors, because advance notice of a future year's TAL would provide some indication of whether regulations such as those regarding possession limit and season would be maintained, tightened, or relaxed.

Implementation of Framework 5 provides NMFS the option, not a requirement, to implement TALs for up to 3 years. Due to its administrative nature, no direct impacts on the economy are expected from the proposed action. All of the environmental impact review procedures required under the Magnuson-Stevens Act and other applicable laws that occur under the current annual specification system will be conducted as part of the Council's TAL specifications submission to NMFS. These review procedures collectively ensure that significant economic effects be considered in the implementation of harvest policy, e.g., if setting a TAL for years 2 and 3 is

appropriate, given the best information available at the time the specifications are set.

#### **Classification**

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

Included in this final rule is the FRFA prepared pursuant to 5 U.S.C. 604(a). The FRFA incorporates the economic impacts summarized in the IRFA for the proposed rule (69 FR 52847, August 30, 2004), the comments on, and responses to, the proposed rule, and the analyses completed in support of this action. A copy of the IRFA is available from the Council (see **ADDRESSES**).

#### **Final Regulatory Flexibility Analysis**

##### *Statement of Objective and Need*

A description of the reasons why action by the agency is being taken and the objectives of this final rule are explained in the preambles to the proposed rule and this final rule and are not repeated here.

##### *Summary of Significant Issues Raised in Public Comments*

Two comments were received on the measures contained in the proposed rule. One comment was received on the potential economic impact of the rule. No changes to the proposed rule were required to be made as a result of public comments. For a summary of the comments received, and the responses thereto refer to the "Comments and Responses" section of this preamble.

##### *Description and Estimate of Number of Small Entities to Which this Rule Will Apply*

The action to implement Framework 5 deals only with the administrative periodicity of annual TAL setting and has no direct effect on entities participating in the fishery because it does not require the implementation of three year TALS. Reduction of the application burden and enrollment period for a summer flounder small mesh exemption area LOA will affect approximately 91 vessel owner/operators on an annual basis (based on the number of applicants in previous years). The requirement for an operator permit in the summer flounder fishery will affect only one summer flounder moratorium permit holder.

##### *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule. The reporting and recordkeeping

requirements associated with the issuance of operator permits has been previously approved by the Office of Management and Budget under OMB approval number 0648-0202. Inclusion of the commercial summer flounder fishery in the list of fisheries for which an operator permit is required corrects an inadvertent omission and does not substantially alter the current annual recordkeeping and reporting burden, as it will affect only one summer flounder moratorium permit holder, who would be required to complete and submit a one-page form (with an estimated public burden of 1 hour). All of the other summer flounder moratorium permit holders are in compliance as a result of holding other Federal permits.

There are no relevant Federal rules that duplicate, overlap, or conflict with this rule. Framework 5 deals only with the administrative periodicity of annual TAL setting, and therefore will have minimal direct effect on entities participating in these fisheries. The other actions in this rule are also solely administrative in nature and are intended to clarify existing regulations. The action regarding the summer flounder small mesh exemption LOA will clarify the application process and reduce the burden on applicants. The action regarding setting the research quota for the scup and black sea bass fisheries within a range of 0 to 3 percent of TALs specified for these species was the maximum allowed to achieve the specified exploitation rate was discussed in the preamble to a final rule regarding these fisheries in 2001 (66 FR 42156, August 10, 2001), but the associated change to the regulatory text inadvertently was not made at that time.

##### *Description of the Steps Taken to Minimize Economic Impact on Small Entities*

There are no economic impacts associated with this action, which is administrative in nature. As such, no steps are needed to minimize impacts. NMFS chose the preferred alternative over the other alternatives because it allows for greater efficiency in the setting of TALs for the summer flounder, scup, and black sea bass fisheries. The alternative containing a provision for annual review was rejected because it would increase the chance that a previous specified TAL would be modified even for de minimus changes in TAL. The no action alternative was rejected because it continued unnecessarily the level of Council and NMFS staff effort required to develop, review and implement annual specifications for fisheries that could be managed with multi-year

TALs. The amount of staff effort saved through the implementation of multi-year TALs allows for the implementation of annual specification for other fisheries on a more timely basis, thereby allowing fishermen to begin a fishing year fully informed as to the amount of a species they can harvest. Further, the no action alternative failed to provide fishermen the level of long range planning and flexibility possible with a multi-year TAL.

#### Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide (i.e., permit holder letter) will be sent to all summer flounder, scup, and black sea bass permit holders to inform them of the implementation of Framework 5 and the additional administrative modifications to the existing regulations. As indicated above, the only measure that requires compliance by permit holders is the requirement for an operator permit in the summer flounder fishery. NMFS will contact directly the one summer flounder moratorium permit holder affected by this rule and request the permit holder to complete and submit a one-page form. Copies of the final rule and permit holder letter are available from NMFS (see **ADDRESSES**) and at the following website: <http://www.nero.noaa.gov>.

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

Fisheries, Reporting and recordkeeping requirements.

Dated: October 22, 2004.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons stated in the preamble, 50 CFR part 648 is 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, paragraph (a)(3)(iii) is revised to read as follows:

#### § 648.4 Vessel permits.

(a) \* \* \*

(3) \* \* \*

(iii) *Exemption permits.* Owners of summer flounder vessels seeking an exemption from the minimum mesh requirement under the provisions of § 648.104(b)(1) must request a letter of authorization (LOA) from the Regional Administrator. Vessels must be enrolled in the exemption program for a minimum of 7 days. The Regional Administrator may impose temporary additional procedural requirements by publishing a notification in the **Federal Register**. If a summer flounder charter or party requirement of this part differs from a summer flounder charter or party management measure required by a state, any vessel owners or operators fishing under the terms of a summer flounder charter/party vessel permit in the EEZ for summer flounder must comply with the more restrictive requirement while fishing in state waters, unless otherwise authorized under § 648.107.

\* \* \* \* \*

■ 3. In § 648.5, paragraph (a) is revised to read as follows:

#### § 648.5 Operator permits.

(a) *General.* Any operator of a vessel fishing for or possessing Atlantic sea scallops in excess of 40 lb (18.1 kg), NE multispecies, spiny dogfish, monkfish, Atlantic herring, Atlantic surf clam, ocean quahog, Atlantic mackerel, squid, butterfly, summer flounder, scup, black sea bass, or bluefish, harvested in or from the EEZ; tilefish harvested in or from the EEZ portion of the Tilefish Management Unit; skates harvested in or from the EEZ portion of the Skate Management Unit; or Atlantic deep-sea red crab harvested in or from the EEZ portion of the Red Crab Management Unit, issued a permit, including carrier and processing permits, for these species under this part, must have been issued under this section, and carry on board, a valid operator permit. An operator's permit issued pursuant to part 697 of this chapter satisfies the permitting requirement of this section. This requirement does not apply to operators of recreational vessels.

\* \* \* \* \*

■ 4. In § 648.14, paragraph (a)(89) is revised to read as follows:

#### § 648.14 Prohibitions.

(a) \* \* \*

(89) Fish for, catch, and retain, or land scup in or from the EEZ north of 35°15.3'

N. lat. in excess of the landing limit established pursuant to § 648.120(b)(3) and (b)(4).

\* \* \* \* \*

■ 5. In § 648.100, paragraph (a) and the headings of paragraphs (a), (b), and (c) are revised, and a new paragraph (b)(11) is added to read as follows:

#### § 648.100 Catch quotas and other restrictions.

(a) *Review.* The Summer Flounder Monitoring Committee shall review the following data, subject to availability, on or before August 15 of each year, unless a TAL has already been established for the upcoming calendar year as part of a multiple-year specification process, provided that new information does not require a modification to the multiple-year quotas, to determine the annual allowable levels of fishing and other restrictions necessary to achieve, with at least a 50-percent probability of success, a fishing mortality rate (F) that produces the maximum yield per recruit ( $F_{max}$ ): Commercial, recreational, and research 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; sea sampling and winter trawl survey data or, if sea sampling data are unavailable, length frequency information from the winter trawl survey and mesh selectivity analyses; impact of gear other than otter trawls on the mortality of summer flounder; and any other relevant information.

(b) *Recommended measures on an annual basis.* \* \* \*

\* \* \* \* \*

(11) Total allowable landings on an annual basis for a period not to exceed 3 years.

(c) *Fishing measures.* \* \* \*

\* \* \* \* \*

■ 6. In § 648.104, paragraph (b)(1) is revised to read as follows:

#### § 648.104 Gear restrictions.

\* \* \* \* \*

(b) \* \* \*

(1) Vessels issued a summer flounder moratorium permit, a summer flounder small-mesh exemption area letter of authorization (LOA), required under paragraph (b)(1)(I) of this section, and fishing from November 1 through April 30 in the exemption area, which is east of the line that follows 72°30.0' W. long. until it intersects the outer boundary of the EEZ (copies of a map depicting the area are available upon request from the Regional Administrator). Vessels fishing

under the LOA shall not fish west of the line. Vessels issued a permit under § 648.4(a)(3)(iii) may transit the area west or south of the line, if the vessel's fishing gear is stowed in a manner prescribed under § 648.100(e), so that it is not "available for immediate use" outside the exempted area. The Regional Administrator may terminate this exemption if he/she determines, after a review of sea sampling data, that vessels fishing under the exemption are discarding more than 10 percent, by weight, of their entire catch of summer flounder per trip. If the Regional Administrator makes such a determination, he/she shall publish notification in the **Federal Register** terminating the exemption for the remainder of the exemption season.

(i) *Requirements.* (A) A vessel fishing in the Summer Flounder Small-Mesh Exemption Area under this exemption must have on board a valid LOA issued by the Regional Administrator.

(B) The vessel must be enrolled in the exemption program for a minimum of 7 days.

(ii) [Reserved]

\* \* \* \* \*

■ 7. In § 648.105, the first sentence of paragraph (d) is revised to read as follows:

**§ 648.105 Possession restrictions.**

\* \* \* \* \*

(d) Owners and operators of otter trawl vessels issued a permit under § 648.4(a)(3) that fish with or possess nets or pieces of net on board that do not meet the minimum mesh requirements and that are not stowed in accordance with § 648.104(e), may not retain 100 lb (45.3 kg) or more of summer flounder from May 1 through October 31, or 200 lb (90.6 kg) or more of summer flounder from November 1 through April 30, unless the vessel possesses a valid summer flounder small-mesh exemption LOA and is

fishing in the exemption area as specified in § 648.104(b). \* \* \*

■ 8. In § 648.120, paragraphs (b)(1) through (b)(10) are redesignated as paragraphs (b)(2) through (b)(11), paragraph (a) and the heading of paragraph (c) are revised, and new paragraphs (b)(1) and (b)(12) are added to read as follows:

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

(a) *Review.* The Scup Monitoring Committee shall review the following data, subject to availability, on or before August 15 of each year, unless a TAL already has been established for the upcoming calendar year as part of a multiple-year specification process, provided that new information does not require a modification to the multiple-year quotas: Commercial, recreational, and research 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; impact of gear on the mortality of scup; and any other relevant information. This review will be conducted to determine the allowable levels of fishing and other restrictions necessary to achieve the F that produces the maximum yield per recruit ( $F_{max}$ ).

(b) \* \* \*

(1) Research quota set from a range of 0 to 3 percent of the maximum allowed to achieve the specified exploitation rate.

\* \* \* \* \*

(12) Total allowable landings on an annual basis for a period not to exceed 3 years.

(c) *Fishing measures.* \* \* \*

\* \* \* \* \*

■ 9. In § 648.140, paragraphs (b)(1) through (b)(9) are redesignated as paragraphs (b)(2) through (b)(10), paragraph (a) and the heading of

paragraph (c) are revised, and new paragraphs (b)(1) and (b)(11) are added to read as follows:

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

(a) *Review.* The Black Sea Bass Monitoring Committee will review the following data, subject to availability, on or before August 15 of each year, unless a TAL already has been established for the upcoming calendar year as part of a multiple-year specification process, provided that new information does not require a modification to the multiple-year quotas, to determine the allowable levels of fishing and other restrictions necessary to result in a target exploitation rate of 23 percent (based on  $F_{max}$ ) in 2003 and subsequent years: Commercial, recreational, and research 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; sea sampling and winter trawl survey data, or if sea sampling data are unavailable, length frequency information from the winter trawl survey and mesh selectivity analyses; impact of gear other than otter trawls, pots and traps on the mortality of black sea bass; and any other relevant information.

(b) \* \* \*

(1) Research quota set from a range of 0 to 3 percent of the maximum allowed to achieve the specified exploitation rate.

\* \* \* \* \*

\* \* \* \* \*

(11) Total allowable landings on an annual basis for a period not to exceed 3 years.

(c) *Fishing measures.* \* \* \*

\* \* \* \* \*