

to be closed at noon, local time, July 7, 2002, when NMFS projected the spring quota would be reached. However, inclement weather during the July 1–7, 2002, opening (abbreviated opening) and the 4th of July holiday limited fishing activities for red snapper in some areas of the Gulf and, therefore, the spring quota was not reached.

Under 50 CFR 622.43(a), NMFS is required to close the commercial 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 available commercial spring quota of 3.10 million lb (1.41 million kg) for red snapper will be reached when the fishery closes at noon, local time, August 7, 2002. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for red snapper will remain closed until noon, local time, October 1, 2002. The operator of a vessel with a valid reef fish permit having red snapper aboard must have landed and bartered, traded, or sold such red snapper prior to noon, local time, August 7, 2002.

During the closure, the bag and possession limits specified in 50 CFR 622.39(b) apply to all harvest or possession of red snapper in or from the EEZ in the Gulf of Mexico, and the sale or purchase of red snapper taken from the EEZ is prohibited. In addition, the bag and possession limits for red snapper apply on board a vessel for which a commercial permit for Gulf reef fish has been issued, without regard to where such red snapper were harvested. However, the bag and possession limits for red snapper apply only when the recreational quota for red snapper has not been reached and the bag and possession limit has not been reduced to zero. The prohibition on sale or purchase does not apply to sale or purchase of red snapper that were harvested, landed ashore, and sold prior to noon, local time, August 7, 2002, and were held in cold storage by a dealer or processor.

#### Classification

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

Dated: July 30, 2002.

**John H. Dunnigan,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 010710173–2184–05; I.D. 032102A]

RIN 0648–AN70

### Fisheries of the Northeastern United States; Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Recreational Measures for the 2002 Fisheries

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement recreational measures for the 2002 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:** Effective August 2, 2002.

**ADDRESSES:** Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees, the Regulatory Impact Review (RIR), the Final Regulatory Flexibility Analysis (FRFA) contained within the RIR, and the Environmental Assessment (EA) are available from the Northeast Regional Office at the following address: National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298. The EA/RIR/FRFA is also accessible via the Internet at <http://www.nero.nmfs.gov/ro/doc/nr.htm>.

**FOR FURTHER INFORMATION CONTACT:** Richard A. Pearson, Fishery Policy Analyst, (978) 281–9279, fax (978) 281–9135, e-mail [rick.a.pearson@noaa.gov](mailto:rick.a.pearson@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) and its implementing regulations (50 CFR part 648, subparts G, H, and I) describe the process for specifying annual recreational measures. Final specifications for the 2002 summer

flounder, scup, and black sea bass fisheries were published at 66 FR 66348, December 26, 2001. These specifications included a coastwide recreational harvest limit of 9.72 million lb (4.40 million kg) for summer flounder, 2.71 million lb (1.23 million kg) for scup, and 3.43 million lb (1.55 million kg) for black sea bass. A proposed rule to implement annual Federal recreational measures for the 2002 summer flounder, scup, and black sea bass fisheries was published at 67 FR 36139, on May 23, 2002, and contained management measures (i.e., minimum fish size, possession limit, and season) intended to keep annual recreational harvest from exceeding the specified harvest limits. For scup, one of the two alternatives that was being considered in the proposed rule is being implemented through this final rule (i.e., NMFS Scup Alternative 1). In the proposed rule, the proposed regulatory text for NMFS Scup Alternative 2 was published. The more stringent alternative was published in order to focus public comment on potential impacts of the two alternatives. However, no comments were received. Because Scup Alternative 1 has lower potential revenue losses associated with it, NMFS has selected Scup Alternative 1 for implementation in the final rule to minimize adverse economic impacts on small entities, yet still prevent the recreational harvest limit from being exceeded. Therefore, the regulatory text for the scup measures differ from those contained in the proposed rule. The recreational measures for black sea bass contained in this final rule are unchanged from those published in the proposed rule. Table 1 contains the coastwide Federal measures for scup and black sea bass that are being implemented. For summer flounder, this final rule implements conservation equivalency, as the process was described in the proposed rule. The management measures will vary according to the state of landing (see Table 2). A complete discussion of the development of the recreational measures appeared in the preamble of the proposed rule and is not repeated here.

TABLE 1—2002 RECREATIONAL MEASURES

Species	Minimum Size (total length)	Possession Limit	Open Season
Summer Flounder Scup	10 inches (25.4 cm)	Varies according to state of landing 20 fish	
Black Sea Bass	11.5 inches (29.21 cm)	25 fish	Jan. 1 through Feb. 28 and July 1 through Oct. 2 Jan.1 through Dec. 31

TABLE 2—2002 STATE RECREATIONAL MANAGEMENT MEASURES FOR SUMMER FLOUNDER

State	Minimum Size (inches)	Minimum size (cm)	Possession Limit	Open Seasons
MA	16.5	41.9	7 fish	Year-Round
RI	18	45.7	5 fish	May 25 through Sep. 20
CT	17	43.2	6 fish	Year-Round
NY	17	43.2	7 fish	May 2 through Oct. 31
NJ	16.5	41.9	8 fish	May 18 through Sep. 24
DE	17.5	44.4	4 fish	May 16 through Dec. 31
MD	17	43.2	8 fish	Jan 1 through July 25&Aug. 12 through Dec. 31
VA	17.5	44.4	8 fish	Mar. 29 through July 23&Aug. 8 through Dec. 31
NC	15.5	39.4	8 fish	July 4 through Nov. 19

### Comments and Responses

One co-signed letter was received from four environmental organizations regarding the proposed recreational measures for summer flounder, scup, and black sea bass. The letter contained two comments. Both comments received prior to the close of the comment period that were relevant to the proposed measures were considered in development of this final rule.

*Comment 1:* The commenters requested that NMFS explain how the recreational scup measures would ensure that overfishing of scup does not occur in 2002, considering that the states, through the Atlantic States Marine Fisheries Commission (ASMFC) Addendum VII, are implementing a different suite of management measures in state waters.

*Response:* The FMP was originally developed as a joint management plan between ASMFC and the Council. However, ASMFC chose to implement different measures to manage the scup recreational fishery than the Council did, through the adoption of ASMFC Addendum VII. NMFS does not, and cannot, regulate state vessel activity in state waters, except under a very narrow set of circumstances under section 306 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) that do not exist in this situation. Therefore, NMFS is implementing one of the scup alternatives that was analyzed by the Council, and determined to result in landings that do not exceed the scup recreational harvest limit. By implementing measures in conjunction

with the states (closed season, minimum fish size and possession limit) designed to reduce recreational landings by 57.4 percent, NMFS is doing all that can be done under the statute, short of closing the recreational scup fishery in the EEZ. A closure of the EEZ to recreational fishing would have virtually no effect, since 92 percent of the recreational harvest comes from state waters. The negative impact of the closure would fall mainly on the party and charter boat sector of the fleet, which may be viewed as unfair, given the minimal effect of such a closure. Further, the cost of enforcing such a closure would, on at least a qualitative basis, exceed whatever benefit would be derived from the closure.

Both the Council and ASMFC sought to achieve an equivalent scup recreational harvest limit (2.71 million lb (1.23 million kg)). However, the Council used a coastwide approach while ASMFC adopted state-specific measures. For instance ASMFC allowed Delaware, Maryland, Virginia and North Carolina to retain their existing management measures due to low historical scup landings. States from Massachusetts through New York were required to implement state-specific measures based upon the effectiveness of their 2001 regulations relative to landings from 1998—2000. In the case of New Jersey, which has very limited recreational landings data, ASMFC approved measures which were determined to most likely achieve the required landings reduction.

As a result, the 2002 coastwide Federal scup recreational regulations will differ from the state-specific scup

recreational measures. NMFS believes that the combination of ASMFC's measures in state waters and NMFS' coastwide Federal measures are consistent with the FMP, given that both the state and Federal measures were developed to achieve the same recreational harvest limit of 2.71 million lb (1.23 million kg).

*Comment 2:* The commenters requested that NMFS explain how using conservation equivalency to manage the summer flounder recreational fishery, whereby Federal measures are waived in lieu of state measures, will ensure that overfishing of the resource does not occur in compliance with the requirements of the Magnuson-Stevens Act, its implementing regulations, and the FMP.

*Response:* The summer flounder measures being implemented through this final rule were selected because they meet the conservation equivalency guidelines and are consistent with the goals and objectives of the FMP and the Magnuson-Stevens Act. The ASMFC Summer Flounder Technical Committee and Management Board have evaluated each state's proposal to determine whether they are consistent with the achievement of the overall summer flounder recreational harvest limit. NMFS has received a determination from ASMFC verifying that each state's proposal is consistent with the state-specific requirements established by the Management Board. The requirement to implement conservation equivalency for the recreational summer flounder fishery have been met. Adopting measures that achieve the required reduction in landings from the 2001

level and that are tailored to address the differences in the fishery in each state, thereby ensuring state support in enforcing these measures, is a reasonable approach to meeting the mandates of the Magnuson-Stevens Act to prevent overfishing.

#### Changes From the Proposed Rule

Section 648.107 was revised to better reflect the procedural requirements for implementing conservation equivalency for the recreational summer flounder fishery. The change clarifies that the Regional Administrator shall determine that the state recreational management measures are the conservation equivalent of the Federal coastwide measures based upon a recommendation from the ASMFC Summer Flounder Board.

Sections 648.122, 648.124, and 648.125 were revised to incorporate NMFS' selection of Scup Alternative 1 for implementation through this final rule, rather than Scup Alternative 2. This selection was made in consideration of the economic analyses presented in the Initial Regulatory Flexibility Analysis (IRFA) which indicated that less severe economic impacts on small entities were associated with Scup Alternative 1. NMFS did not receive any public comments regarding the economic impacts of the proposed measures contained in the IRFA.

#### Classification

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

This action establishes recreational management measures for the 2002 summer flounder, scup, and black sea bass fisheries. Immediate action to impose more stringent size and possession limits in the scup and black sea bass fisheries must be taken to slow the recreational harvest of these species and enhance the probability that the harvest limits for these species will not be exceeded. For summer flounder, immediate action is necessary to achieve consistency between state and Federal measures. This is a benefit to the states as their vessels can fish under their rules without compromising conservation of the resource. For all of the species, it is important to implement these measures as soon as possible to prevent overfishing. Failure to implement these provisions immediately could result in landings in excess of the recreational harvest limits and prevent NMFS from carrying out its mandate to prevent overfishing of these resources. It would, therefore, be impracticable and contrary to the public

interest to delay implementation of these provisions. The Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness of the 2002 summer flounder, scup, and black sea bass recreational measures.

The Council and NMFS prepared a Final Regulatory Flexibility Analysis (FRFA) for this action. A copy of this analysis is available from the Regional Administrator (see **ADDRESSES**). The preamble to the proposed rule contained a detailed summary of the methodology and analyses contained in the IRFA and that discussion is not repeated in its entirety here. A summary of the FRFA follows.

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.

#### Public Comments

One letter was received on the recreational measures contained in the proposed rule. The letter did not reference the IRFA or the economic impacts on small entities.

#### Number of Small Entities

The measures established by this action could affect any recreational angler who fishes for summer flounder, scup or black sea bass in Federal waters. However, the summary of impacts focused upon the 738 party/charter vessels that held Federal party/charter permits for the summer flounder, scup, and/or black sea bass fisheries in 2000 (the most recent year for which complete permit data are available) because these vessels can be specifically identified in the Federal vessel permit database, and would be impacted by the regulations regardless of whether they fish in state or Federal waters. Although other recreational fishers are likely to be impacted, they are not considered small entities, nor is a Federal permit required to participate in these fisheries. Of the 738 vessels possessing a Federal party/charter permit for these fisheries, only 393 reported actively participating in these fisheries in 2000.

#### Minimization of Significant Economic Impacts on Small Entities

The FRFA contains an analysis of the measures being implemented and the other alternatives that were considered. The measures being implemented in this final rule consist of the Council's preferred alternative for summer flounder and black sea bass, and the Council's non-preferred alternative for scup (NMFS Scup Alternative 1).

The category of small entities likely to be affected by this action are party/charter vessels harvesting summer flounder, scup, and/or black sea bass. This action could affect any party/charter vessel holding a Federal permit for summer flounder, scup, and/or black sea bass, regardless of whether it is fishing in Federal or in state waters. The measures implemented through this final rule could affect 738 vessels with a Federal charter/party permit for summer flounder, scup and/or black sea bass. However, only 393 of these vessels actively reported participating in the recreational summer flounder, scup, and/or black sea bass fisheries in 2000.

The FRFA analysis assessed each of the management alternatives and their impacts upon revenues of federally permitted party/charter vessels. Projected Marine Recreational Fisheries Statistics Survey (MRFSS) data indicate that 1.778 million trips were taken by anglers aboard party/charter vessels in 2001 in the Northeast Region. The methodology used to assess the economic impacts of the management measures upon party/charter vessels was described in detail in the IRFA summary contained in the proposed rule and is not repeated here.

The final 2002 summer flounder recreational measures are expected to limit the coastwide catch to 9.72 million lb (4.40 million kg) and reduce landings by at least 27 percent, compared to 2001, by deferring to state management measures as the process for state conservation equivalency was specified through Framework Adjustment 2 to the FMP (66 FR 36208). Comparatively, the economic impact of conservation equivalency among states will likely be proportional to the level of landings reductions that are required of each state. Based upon the number of fish landed in 1998 and projected to have been landed in 2001, the percent reduction in landings required by the states for 2002 (relative to 2001) are: Rhode Island - 5 percent; New Jersey - 16.7 percent; Delaware - 3.5 percent; Maryland - 5.3 percent; Virginia - 43.8 percent; and North Carolina - 28.4 percent. Massachusetts, Connecticut and New York do not require any reductions in recreational summer flounder landings if their current regulations are maintained. If conservation equivalency is effective at achieving the recreational harvest limit, then it is likely to be the only alternative that minimizes economic impacts on small entities, to the extent practicable, yet still achieves the biological objectives of the FMP. This is because each state may adopt measures that are most appropriate for that state to

achieve its conservation objectives, rather than being required to adopt Federal coastwide measures.

The precautionary default provision that was included in the conservation equivalency proposal was not analyzed as a separate provision because it was assumed that, if conservation equivalency were approved in the final rule, the states would use the opportunity to tailor less restrictive measures designed specifically to their state fisheries. Precautionary default measures are defined as measures that would achieve at least the overall required reduction in landings for each state. The Precautionary Default Alternative consists of an 18-inch (45.72-cm) total length (TL) 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 41 percent (Delaware) to 88.2 percent (North Carolina). As specified by Framework 2 to the FMP, specific states that fail to implement conservation equivalent measures would be required to implement the precautionary default measures. For 2002, none of the states are required to implement the precautionary default measures.

Under the coastwide summer flounder alternative (17-inch (43.2-cm) TL minimum fish size, eight-fish possession limit, and a year-round open season), less than 1 percent of trips aboard party/charter vessels would be affected, assuming that angler effort and catch rates in 2002 are similar to 2001. The average potential revenue loss per vessel under this alternative was estimated to be \$1,506 in Delaware, \$961 in New Jersey, \$808 in Virginia, \$186 in Maryland, and \$67 in Rhode Island. This coastwide alternative was not selected because the Council recommended conservation equivalency instead, because that alternative would be more likely to minimize economic impacts on small entities.

The status quo summer flounder alternative would have maintained a 15.5-inch (39.4-cm) TL minimum fish size, a three-fish possession limit, and an open season from May 25 to September 4. Assuming that angler effort in 2002 is similar to 2001, and that catch rates remain constant, the status quo alternative would not affect any additional recreational fishing trips for summer flounder in 2002. This alternative was not selected because it did not achieve the recreational harvest limit established for 2002.

The final 2002 recreational scup measures (10-inch (25.4-cm) TL minimum fish size, 20-fish possession limit, and January 1 through February

28 and July 1 through October 2 open seasons) will affect approximately 4 percent of the total angler trips taken aboard party/charter vessels in 2002, assuming catch rates and angler effort in 2002 are similar to those in 2001. Under this alternative, the average maximum revenue loss per vessel was estimated to be \$13,425 in New York, \$8,267 in Delaware, \$3,114 in Massachusetts, \$2,525 in Connecticut, \$2,083 in Rhode Island, and \$899 in New Jersey. Scup Alternative 1 was selected for implementation because it would result in landings that do not exceed the recreational harvest limit and because the revenue losses associated with this alternative are less than those associated with Scup Alternative 2.

As emphasized in the IRFA summary in the proposed rule, the methodology used in the economic analysis likely overestimates the potential revenue impacts associated with each alternative. The analysis assumes that any affected fishing trip (i.e., not in compliance with the management measures) in 2001 would not occur in 2002. It is quite likely that some anglers would continue to take party/charter vessel trips, even if the restrictions limit their landings.

The measures proposed under Scup Alternative 2 (a 9-inch (22.9-cm) TL minimum fish size, a 20-fish possession limit, and open seasons from January 1 through February 28 and September 2 through October 31) would affect approximately 7.3 percent of the total angler trips taken aboard party/charter boats in 2001, assuming catch rates and angler effort in 2002 are similar to those in 2001. The average maximum gross revenue loss per party/charter vessel associated with NMFS Scup Alternative 2 was estimated to be \$15,509 in New York, \$11,733 in Delaware, \$10,495 in New Jersey, \$6,704 in Massachusetts, \$3,591 in Rhode Island, and \$2,754 in Connecticut. This alternative was not selected because of the higher potential revenue losses associated with it.

The economic impacts associated with the Council's Preferred Scup Alternative and with Scup Alternative 3 were summarized in the proposed rule and are not repeated here. The Council's Preferred Scup Alternative was not implemented because it would not achieve the landings reduction necessary to attain the 2002 scup recreational harvest limit and would not be in compliance with the FMP. Scup Alternative 3 was not selected for implementation because it specified a very short fishing season and, consequently, had very high associated potential revenue losses.

The status quo alternative for scup would have maintained a 50-fish possession limit, a 9-inch (22.9-cm) TL minimum fish size, and an open season from August 15 through October 31. Assuming that angler effort in 2002 is similar to 2001 and that catch rates remain constant, the status quo alternative would not affect any additional recreational fishing trips for scup in 2001. This alternative was not selected because it does not meet the goals and objectives of the FMP.

For black sea bass, about 1.8 percent of the trips aboard party/charter vessels in 2001 would be affected by the final 2002 recreational measures, assuming that catch rates and angler effort in 2002 are similar to 2001. Under this alternative, the average maximum revenue loss per vessel is estimated to be \$26,122 in Maryland, \$11,091 in Delaware, \$3,075 in New Jersey, \$1,818 in Virginia, \$1,378 in North Carolina, and \$54 in Rhode Island. This alternative was selected because it minimizes economic impacts and attains the goals and objectives of the FMP.

Under black sea bass alternative 1 (an 11-inch (27.9-cm) TL minimum fish size, a 25-fish possession limit, and an open season from May 19 through November 30) about 5.5 percent of the trips aboard party/charter vessels would have been affected. Under this alternative, the average maximum revenue loss per vessel was estimated to be \$27,264 in Maryland, \$12,868 in Delaware, \$4,119 in New Jersey, \$2,023 in Virginia, \$1,578 in Rhode Island, \$1,542 in North Carolina, and \$36 in Massachusetts. This alternative was not selected because it has a greater negative economic impact than the selected alternative and does not minimize economic impacts on small entities.

Under black sea bass Alternative 2 (an 11-inch (27.94-cm) TL minimum fish size, a 15-fish possession limit, and an open season from January 1 through February 28 and May 1 through December 26) about 5.5 percent of the trips aboard party/charter vessels would have been affected. The average maximum revenue loss per vessel associated with this alternative was estimated to be \$36,772 in Maryland, \$23,462 in New Jersey, \$10,582 in Delaware, \$1,869 in Virginia, \$1,378 in North Carolina, \$183 in Rhode Island, \$59 in New York, and \$5 in Massachusetts. Black sea bass Alternative 2 was not selected because it would have a greater negative economic impact than the selected alternative and would not minimize the economic impacts on small entities.

The status quo alternative for black sea bass would have maintained an 11-inch (27.9-cm) TL minimum fish size, a 25-fish possession limit, and open seasons from January 1 through February 28 and May 10 through December 31. Assuming that angler effort in 2002 is similar to 2001 and that catch rates remain constant, the status quo alternative would not affect any additional recreational fishing trips for black sea bass in 2002. This alternative was not selected because it would not meet the goals and objectives of the FMP.

It is important to re-emphasize that the revenue losses discussed above represent the maximum potential gross revenue losses per vessel. These losses were calculated by assuming that all of the angler trips constrained by the proposed measures would no longer occur. Because anglers would continue to have the ability to engage in catch-and-release fishing for summer flounder, scup, and black sea bass and because of the numerous alternative target species available to anglers, the reduction in effort and associated expenditures should be substantially lower than indicated in this summary. The lack of a demand model limits the ability to empirically estimate how sensitive the affected anglers might be to the proposed regulations. Because the measures affect the number and size of the fish that may be kept and do not prohibit anglers from engaging in catch-and-release fishing or fishing up to the possession limit, demand and revenues for party/charter vessels are expected to remain relatively stable in 2002.

In summary, the summer flounder recreational measures minimize economic impacts on small entities by allowing states to develop and implement measures that are most appropriate for their fisheries, yet are consistent with the biological objectives of the FMP. The scup recreational alternative that is being implemented through this final rule has been determined to have the lowest potential revenue losses associated with it, as compared to all of the alternatives that achieve the biological objectives of the FMP. Similarly, the black sea bass recreational alternative that is being implemented through this final rule has been determined to have the lowest potential revenue losses associated with it, compared to all of the alternatives that achieve the biological objectives of the FMP. This action does not contain any additional collection-of-information, reporting, recordkeeping, or other compliance requirements.

This action does not duplicate, overlap, or conflict with any other Federal rules.

The RIR/FRFA is available from the Council (see **ADDRESSES**).

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

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 29, 2002.

**William T. Hogarth,**

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

For the reasons set out 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 § 648.100, a heading is added to paragraph (d) introductory text to read as follows:

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

\* \* \* \* \*

(d) *Commercial measures.* \* \* \*

3. Section 648.102 is revised to read as follows:

#### **§ 648.102 Time restrictions.**

Unless otherwise specified pursuant to § 648.107, vessels that are not eligible for a moratorium permit under § 648.4(a)(3) and fishermen subject to the possession limit may fish for summer flounder from January 1 through December 31. This time period may be adjusted pursuant to the procedures in § 648.100.

4. In § 648.103, paragraph (b) is revised to read as follows:

#### **§ 648.103 Minimum fish sizes.**

\* \* \* \* \*

(b) Unless otherwise specified pursuant to § 648.107, the minimum size for summer flounder is 17 inches (43.2 cm) TL for all vessels that do not qualify for a moratorium permit, and charter boats holding a moratorium permit if fishing with more than three crew members, or party boats holding a moratorium permit if fishing with passengers for hire or carrying more than five crew members.

\* \* \* \* \*

5. 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 eight 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.\*\*\*

\* \* \* \* \*

6. Section 648.107 is revised to read as follows:

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

(a) The Regional Administrator has determined that the recreational fishing measures proposed to be implemented by the states of Maine through North Carolina for 2002 are the conservation equivalent of the season, minimum size and possession limit prescribed in §§ 648.102, 648.103 and 648.105(a), respectively. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

(1) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels harvesting summer flounder in or from the EEZ and subject to the recreational fishing measures of this part, landing summer flounder in a state whose fishery management measures are determined by the Regional Administrator to be conservation equivalent shall not be subject to the more restrictive Federal measures, pursuant to the provisions of § 648.4(b). Those vessels shall be subject to the recreational fishing measures implemented by the state in which they land.

(2) [Reserved]

(b) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels registered in states and subject to the recreational fishing measures of this part, whose fishery management measures are not determined by the Regional Administrator to be the conservation equivalent of the season, minimum size and possession limit prescribed in §§ 648.102, 648.103(b) and 648.105(a), respectively, due to the lack of, or the reversal of, a conservation equivalent recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission shall be subject to the following precautionary default measures: Season through January 1 through December 31; minimum size - 18 inches (45.7 cm); and possession limit - one fish.

7. 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 October 2. This time period may be adjusted pursuant to the procedures in § 648.120.

8. In § 648.124, paragraph (b) is revised to read as follows:

**§ 648.124 Minimum fish sizes.**

\* \* \* \* \*

(b) The minimum size for scup is 10 inches (25.4 cm) TL for all vessels that do not have a moratorium permit, or for party and charter vessels that are issued a moratorium permit but are fishing with passengers for hire, or carrying more than three crew members if a charter boat, or more than five crew members if a party boat.

\* \* \* \* \*

9. 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 20 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.\*\*\*

\* \* \* \* \*

10. 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 December 31. This time period may be adjusted pursuant to the procedures in § 648.140.

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

**§ 648.143 Minimum sizes.**

\* \* \* \* \*

(b) The minimum size for black sea bass is 11.5 inches (29.2 cm) TL for all vessels that do not qualify for a moratorium permit, and party boats holding a moratorium permit if fishing with passengers for hire or carrying more than five crew members, or 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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