

## FY 2003 SCHEDULE OF REGULATORY FEES (continued)

FY 2003 RADIO STATION REGULATORY FEES						
Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=25,000	600	450	325	400	475	625
25,001 – 75,000	1,200	900	475	600	950	1,100
75,001 – 150,000	1,800	1,125	650	1,000	1,300	2,025
150,001 – 500,000	2,700	1,925	975	1,200	2,025	2,650
500,001 – 1,200,000	3,900	2,925	1,625	2,000	3,200	3,900
1,200,001 – 3,000,00	6,000	4,500	2,450	3,200	5,225	6,250
>3,000,000	7,200	5,400	3,100	4,000	6,650	8,125

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

[Docket No.040326103–4103–01; I.D. 031504A]

RIN 0648–AQ82

## Fisheries of the Northeastern United States; Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2004

**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 2004 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 April 29, 2004.

**ADDRESSES:** Comments on the proposed recreational measures should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope “Comments on Recreational Specifications.” Comments may also be submitted via facsimile (fax) to 978–281–9135, and via e-mail to the following address: [FSBREC04@noaa.gov](mailto:FSBREC04@noaa.gov). Comments may also be submitted electronically through the Federal e-Rulemaking portal: <http://www.regulations.gov>.

Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees 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, and are accessible via the Internet at <http://www.nero.noaa.gov/ro/doc/com.htm>.

**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, which are 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 coasts, 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 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 2004 summer flounder, scup, and black sea bass fisheries were published on January 14, 2004 (69 FR 2074). These specifications were determined to be consistent with the 2004 target fishing mortality rate (F) (for summer flounder) and target exploitation rates (for scup and black sea bass). The 2004 coastwide recreational harvest limits are 11.21 million lb (5,085 mt) for summer flounder, 3.99 million lb (1,810 mt) for scup, and 4.01 million lb (1,819 mt) for black sea bass. The specifications did not establish recreational measures, since final recreational catch data for 2003 were not available when the Council made its recreational harvest limit recommendation to NMFS.

All minimum fish sizes discussed below are total length measurements of the fish, i.e., the straight-line distance from the tip of the snout to the end of the tail while the fish is lying on its side.

### Summer Flounder

Recreational landings for 2003 were estimated to be 11.565 million lb (5,246 mt), 25 percent greater than the 2003 recreational harvest limit (by weight). However, all states are estimated to be below their 2003 targets when their allocations are converted to number of fish using the average weight of summer flounder harvested during 2002 and 2003. The only exceptions are NY (110

percent over), NJ (9 percent over), and CT (6 percent over). The 2004 coastwide harvest limit is 11.21 million lb (5,085 mt), a 21-percent increase over the 2003 harvest limit, and 3 percent less than the estimated 2003 landings. Assuming the same level of fishing effort in 2004 as in 2003, a 3-percent reduction in landings coastwide would be required for summer flounder. As described below, under conservation equivalency, as recommended by the Council, NY and NJ would be required to reduce summer flounder landings in 2004, by 48.5 percent and 1.3 percent, respectively.

NMFS implemented Framework Adjustment 2 to the FMP on July 29, 2001 (66 FR 36208), which established a process that makes conservation equivalency an option for the summer flounder recreational fishery. Conservation equivalency allows each state to establish its own recreational management measures (possession limits, minimum fish size, and fishing seasons), as long as the combined effect of all of the states' management measures achieves the same level of conservation as would Federal coastwide measures developed to achieve the recreational harvest limit, if implemented by all of the states. Conservation equivalency was approved for the 2003 summer flounder recreational fishery.

The Council and Board recommend annually that either state-specific recreational measures be developed (conservation equivalency) or coastwide management measures be implemented by all states to ensure that the recreational harvest limit will not be exceeded. Even when the Council and Board recommend conservation equivalency, the Council must specify a set of coastwide measures that would apply if conservation equivalency is not approved. If conservation equivalency is recommended and, following confirmation that the proposed state measures would achieve conservation equivalency, NMFS may waive the permit condition found at § 648.4(b), which requires federally permitted vessels to comply with the more restrictive management measures when state and Federal measures differ. Federally permitted charter/party permit holders and recreational vessels fishing for summer flounder in the EEZ then would be subject to the recreational fishing measures implemented by the state in which they land summer flounder rather than the coastwide measures. In addition, the Council and the Board must recommend precautionary default measures. The Commission would require adoption of

the precautionary default measures by any state that either does not submit a summer flounder management proposal to the Council's Summer Flounder Technical Committee, or that submits measures that are determined by the Board not to achieve the required reduction. The precautionary default measures are defined as the measures that would achieve at least the overall required reduction in landings for each state.

In December 2003, the Council and Board voted to recommend conservation equivalency to achieve the 2004 recreational harvest limit. The Commission's conservation equivalency guidelines require each state, using state-specific equivalency tables, to determine and implement an appropriate possession limit, minimum fish size, 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. Landings projections for 2003 indicate that NY and NJ will be the only states required to reduce recreational summer flounder landings in 2004, by 48.5 percent and 1.3 percent, respectively. States other than NY and NJ (from ME to NC) would not require any reductions in recreational summer flounder landings if their current regulations are maintained.

The Board required that each state submit its conservation equivalency proposal to the Commission by February 17, 2004. The Commission's Summer Flounder Technical Committee then evaluated the proposals and advised the Board of each proposal's consistency with respect to achieving the coastwide recreational harvest limit. The Commission has invited public participation in its review process by holding public meetings and offering the public the opportunity to comment on the state proposals. The Board met on March 11, 2004, and approved all of the state management proposals. For some states, the Board approved multiple management options. Once these states select and submit their final summer flounder management measures to the Commission, the Commission officially will notify NMFS as to which state proposals have been approved or disapproved. NMFS retains the final authority to either approve or disapprove using conservation equivalency in place of the coastwide measures and will publish its determination in the final rule, establishing the 2004 recreational measures for these fisheries.

States that do not submit conservation equivalency proposals, or for which

proposals were disapproved by the Commission, would be required by the Commission to adopt the precautionary default measures. In the case of states that are initially assigned precautionary default measures, but subsequently receive Commission approval of revised state measures, NMFS will publish a notice in the **Federal Register** announcing a waiver of the permit condition at § 648.4(b).

The coastwide measures recommended by the Council and Board consist of a 17-inch (43.2-cm) minimum fish size, a possession limit of four fish per person, and no closed season. In this action, NMFS proposes to maintain the coastwide measures in the EEZ. The coastwide measures would reduce recreational landings by 11 percent, based on 2001 data, assuming the coastwide regulations are implemented by all states. State-specific reductions in landings would range from 0 percent in MD to 63 percent in NC. These measures would be waived if conservation equivalency is approved.

The precautionary default measures specified by the Council and Board are the same as specified for 2003 and consist of an 18-inch (45.7-cm) minimum fish size, a possession limit of one fish per person, and no closed season.

### Scup

For 2004, the Total Allowable Landings of scup was maintained at the 2003 level. As a result of a slightly larger research set-aside amount for 2004 than for 2003, the 2004 scup recreational harvest limit is 3.99 million lb (1,812 mt), a less than 1-percent decrease from the 2003 harvest limit of 4.01 million lb (1,819 mt). Recreational landings in 2003 were estimated to be 9.6 million lb (4,354 mt), more than twice the 2003 harvest limit. To achieve the 2004 target, a 58-percent reduction in landings relative to landings in 2003 is necessary.

The 2004 scup recreational fishery will be managed under separate regulations for state and Federal waters; the Federal measures would apply to party/charter boats with Federal permits and other vessels subject to the possession limit that fish in the EEZ. In Federal waters, to achieve the 2004 target, 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 29, and August 15 through November 30. However, additional analysis indicates that these recommended measures would achieve only a 48-percent reduction in landings relative to

landings in 2003. In order to achieve the required 58-percent reduction, NMFS proposes to implement 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 the last day of February, and September 8 through November 30. For comparative purposes, the current (status quo) scup recreational measures in the EEZ are 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.

As in the past 2 years, the scup fishery in state waters will be managed under a regional conservation equivalency system developed through the Commission. Addendum XI to the Interstate FMP (Addendum XI), approved by the Board at the January 2004 Council/Commission meeting, requires that the states of MA through NY each develop state-specific management measures to reduce their landings by 57 percent relative to their landings in 2003, through a combination of minimum fish size, possession limits, and seasonal closures. In February 2004, the Commission revised the required reduction of landings for MA through NY to 53.2 percent, based on Marine Recreational Fisheries Statistical Survey (MRFSS) landings estimates through December 2003. At the March 11, 2004, meeting, the Board approved the status quo measures for NJ, i.e., 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 states, DE through NC, the Board approved the retention of status quo management measures, i.e., an 8-inch (20.3-cm) minimum fish size, a 50-fish possession limit, and no closed season. The northern states are expected to submit management measures to the Commission for technical review in the next few weeks. Because the Federal FMP does not contain provisions for conservation equivalency, and states may adopt their own unique measures under Addendum XI, it is likely that state and Federal recreational scup measures will differ for the 2004 season.

### Black Sea Bass

The 2004 black sea bass recreational harvest limit is 4.01 million lb (1,819 mt), a 17-percent increase from the 2003 harvest limit. Recreational landings in 2003 were estimated to be 3.995 million lb (1,812 mt), 16 percent over the 2003 target. Assuming the same level of fishing effort in 2004, no coastwide reduction in landings is required.

Currently, the Federal coastwide black sea bass recreational measures are: a 25-fish per person possession limit; a minimum size of 12 inches (30.5 cm); and open seasons of January 1 through September 1, and September 16 through November 30. State regulations vary. Although no reduction in landings is required relative to 2003 landings, the Council and Board decided to take a precautionary approach to maintain the status quo measures. The Council recommended open seasons from January 1 through September 7, and September 22 through November 30. These measures are expected to constrain recreational black sea bass landings to the 2004 target.

### Classification

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

In the EA/IRFA, the no-action alternative (i.e., maintenance of the regulations as codified) is defined as implementation of the following: (1) for summer flounder, coastwide measures of a 17-inch (43.2-cm) minimum fish size, a 4-fish possession limit, and no

closed season, i.e., the measure that would be implemented if conservation equivalency is not implemented in the final rule; (2) for scup, a 10-inch (25.4-cm) minimum fish size, a 50-fish possession limit, and open seasons of January 1 through February 28, and July 1 through November 30; and (3) for black sea bass, a 12-inch (30.5-cm) minimum size, a 25-fish per person possession limit, and an open season of January 1 through September 1, and September 16 through November 30.

The implications of the no-action alternative are substantial. For summer flounder, reductions in landings would range from 0 percent in MD to 63 percent in NC. The no-action alternative (i.e., maintenance of the regulations as codified) would not be restrictive enough to effect the recommended 58-percent reduction in scup landings relative to 2003, but would constrain black sea bass landings to the harvest limit for 2004. In consideration of the recreational harvest limits established for the 2004 fishing year, taking no action in the summer flounder and scup fisheries would be inconsistent with the goals and objectives of the FMP and its implementing regulations, and, because it could result in overfishing of the scup fishery, also would be inconsistent with National Standard 1 of the Magnuson-Stevens Act. Therefore, the no-action alternative was not considered to be an acceptable alternative to the preferred action.

The Council estimated that the proposed measures could affect any of the 775 vessels possessing a Federal charter/party permit for summer flounder, scup, and/or black sea bass in 2002, the most recent year for which complete permit data are available. Only 327 of these vessels reported active participation in the recreational summer flounder, scup, and/or black sea bass fisheries in 2002.

Effects of the various management measures were analyzed by employing quantitative approaches, to the extent possible. Where quantitative data were not available, the Council conducted qualitative analyses. Although NMFS's 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 for profitability. This is because reliable cost data are not available for these fisheries. Without reliable cost data, profits cannot be discriminated from gross revenues. As reliable cost data become available, impacts to profitability can be more accurately forecast. Similarly, changes to long-term

solvency were not assessed due both to the absence of cost data and because the recreational management measures change annually according to the specification-setting process.

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

Impacts were examined by first estimating the number of angler trips aboard party/charter vessels in each state in 2003 that would have been affected by the proposed 2004 management measures. All 2003 party/charter fishing trips that would have been constrained by the proposed 2004 measures in each state were considered to be affected trips.

There is very little information available to estimate empirically how sensitive the affected party/charter vessel anglers might be to the proposed fishing regulations, with the exception of states for which the contribution of summer flounder, scup, and black sea bass to the total catch by party/charter vessels is negligible (ME and NH) and DE, for which results are suppressed for confidentiality purposes. If the proposed measures discourage trip-taking behavior among some of the affected anglers, economic losses may accrue to the party/charter vessel industry in the form of reduced access fees. On the other hand, if the proposed measures do not have a negative impact on the value or satisfaction the affected anglers derive from their fishing trips, party/charter revenues would remain unaffected by this action. In an attempt to estimate the potential changes in gross revenues to the party/charter vessel industry in each state, two hypothetical scenarios were considered: A 25-percent reduction, and a 50-percent reduction, in the number of fishing trips that are predicted to be affected by implementation of the

management measures in the NE (ME through NC) in 2004.

Total economic losses to party/charter vessels were then estimated by multiplying the number of potentially affected trips in each state in 2004, under the two hypothetical scenarios, by the estimated average access fee paid by party/charter anglers in the NE in 2003. Finally, total economic losses were divided by the number of federally permitted party/charter vessels that participated in the summer flounder, scup, and/or black sea bass fisheries in 2002 in each state (according to homeport state in the NE database) to obtain an estimate of the average projected gross revenue loss per party/charter vessel in 2004.

The MRFSS data indicate that anglers fished 34.66 million days in 2003 in the NE. In the NE, party/charter anglers comprised about 5 percent of the angler fishing days. The number of trips in each state ranged from approximately 14,000 in ME to approximately 457,000 in NJ. The number of trips that targeted summer flounder, scup, and/or black sea bass was identified, as appropriate, for each measure, and the number of trips that would be impacted by the proposed measures was estimated. Finally, the revenue impacts were estimated by calculating the average fee paid by anglers on party/charter vessels in the NE in 2003 (\$37.70 per angler), and the revenue impacts on individual vessels were estimated. The analysis assumed that angler effort and catch rates in 2004 will be similar to 2003.

The Council noted that this method is likely to result in overestimation of the potential revenue losses that would result from implementation of the proposed coastwide measures in these three fisheries for several reasons. First, the analysis likely overestimates the potential revenue impacts of these measures because some anglers would continue to take party/charter vessel trips, even if the restrictions limit their landings. Also, some anglers may engage in catch and release fishing and/or target other species. It was not possible to estimate the sensitivity of anglers to specific management measures. Second, the universe of party/charter vessels that participate in the fisheries is likely to be even larger than presented in these analyses, as party/charter vessels that do not possess a Federal summer flounder, scup, or black sea bass permit because they fish only in state waters are not represented in the analyses. Considering the large proportion of landings from state waters (approximately 90 percent of summer flounder and scup landings in 2002), 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.

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

The proposed action for the summer flounder recreational fishery would limit coastwide catch to 11.21 million lb (5,085 mt) by either waiving the permit condition at § 648.4(b) and requiring Federal permit holders to comply with management measures set by the states (conservation equivalency) or imposing coastwide Federal measures throughout the EEZ.

The impact of the proposed summer flounder conservation equivalency alternative (in Alternative 1) among states is likely to be similar to the level of landings reductions that are required of each state. As indicated above, only NY and NJ would be required to reduce summer flounder landings in 2004, relative to their 2003 landings (by 48.5 percent and 1.3 percent, respectively). If the preferred conservation equivalency alternative is effective at achieving the recreational harvest limit, then it is likely to be the only alternative that minimizes adverse economic impacts, to the extent practicable, yet achieves the biological objectives of the FMP. Because states have a choice, it is more rational for the states to adopt conservation equivalent measures that result in fewer adverse economic impacts than to adopt the much more restrictive precautionary default measures (i.e., only one fish measuring at least 18 inches (45.7 cm)).

The impacts of the non-preferred summer flounder coastwide alternative (in Alternative 2), i.e., a 17-inch (43.2-cm) minimum fish size, a four-fish possession limit, and no closed season, were evaluated using the quantitative method described above. Impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2003 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 1.1 percent of the party/charter vessel trips in the NE.

The state-specific landings reductions associated with the precautionary default measures, consisting of an 18-inch (45.7-cm) minimum fish size, a one-fish possession limit, and no closed season, would reduce state specific

landings by a range of 41 percent (DE) to 88 percent (NC), relative to landings in these states in 2003. 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 default 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 3.99 million lb (1,812 mt) and reduce landings by at least 58 percent compared to 2003.

For the preferred scup alternative (in Alternative 1), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2003 that landed at least 1 scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least 1 scup during the proposed closed seasons of March 1 through August 14, and December 1 through December 31. The analysis concluded that the measures would affect 2.4 percent of party/charter vessel trips in the NE.

For the scup no action alternative (in Alternative 2), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2003 that landed at least 1 scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least 1 scup during the periods of March 1 through June 30, and December 1 through December 31. The analysis concluded that the measures would affect 1.2 percent of party/charter vessel trips in the NE.

For the scup measures considered in Alternative 3, impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2003 that landed at least 1 scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least 1 scup during the period March 1 through September 7, and December 1 through December 31. The analysis concluded that the measures in this alternative would affect 3.2 percent of party/charter vessel trips in the NE.

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

The proposed action for black sea bass would limit coastwide landings to 4.01 million lb (1,819 mt). For the preferred black sea bass alternative (in Alternative 1), impacted trips were defined as individual angler trips taken aboard

party/charter vessels in 2003 that landed at least 1 black sea bass smaller than 12 inches (30.5 cm), that landed more than 25 black sea bass, or that landed at least 1 black sea bass during the proposed closed seasons of September 8 through September 21, and December 1 through December 31. The analysis concluded that the measures would affect less than 1 percent of party/charter vessel trips in the NE.

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 2003 that landed at least 1 black sea bass smaller than 11.5 inches (29.2 cm), that landed more than 25 black sea bass, or that landed at least 1 black sea bass during the period of September 2 through September 15, and December 1 through December 31. The analysis concluded that the proposed alternative would affect less than 1 percent of party/charter vessel trips in the NE.

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 2003 that landed at least 1 black sea bass smaller than 12 inches (30.5 cm) or that landed more than 20 black sea bass. The analysis concluded that the measures would affect 1.4 percent of party/charter trips.

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

Since the management measures under summer flounder Alternative 1 (i.e., conservation equivalency) have yet to be adopted, the effort effects of this alternative could not be analyzed in conjunction with the alternatives proposed for scup and black sea bass. The percent of total party/charter vessel trips in the NE that were estimated to be affected by the other alternatives ranged from a low of 3 percent for the combination of measures proposed under summer flounder Alternative 2, scup Alternative 2, and black sea bass Alternative 2 to 10.5 percent for the precautionary default measures for summer flounder combined with the measures proposed under scup Alternative 3 and black sea bass Alternative 3.

Potential revenue losses in 2004 could differ for party/charter vessels that land more than one of the regulated species. The cumulative maximum gross revenue loss per vessel varies by the combination of permits held and by state. All 18 potential combinations of management alternatives proposed for

summer flounder, scup, and black sea bass are predicted to affect party/charter vessel revenues to some extent in 9 of the 11 NE coastal states. Angler effort aboard party/charter vessels in 2004 in ME and NH is not predicted to be constrained (i.e., affected) by the proposed measures, thus party/charter revenues for vessels operating in these states are not estimated to be impacted. In addition, although potential losses were estimated for party/charter vessels operating out of DE, these results are suppressed for confidentiality purposes. Average party/charter losses for federally permitted vessels operating in the remaining states are estimated to vary considerably across the 18 combinations of alternatives. For instance, in CT, average losses are predicted to range from only \$13 per vessel under the combined effects of summer flounder Alternative 2, scup Alternative 1, and black sea bass Alternative 1, to \$6,456 for the combination of alternatives proposed for summer flounder Alternative 2, scup Alternative 3, and black sea bass

Alternative 1 (assuming a 25-percent reduction in affected effort).

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: April 8, 2004.

**William T. Hogarth,**

*Assistant Administrator for Fisheries,  
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 § 648.122, 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 the last day of February, and from September 8 through November 30. This time period may be adjusted pursuant to the procedures in § 648.120.

\* \* \* \* \*

■ 3. 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 7, and September 22 through November 30. This time period may be adjusted pursuant to the procedures in § 648.140.

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