

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 010511122-1122-01; I.D. 031901C]

RIN 0648-AN70

**Fisheries of the Northeastern United States; Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries Fishing Year 2001**

**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 2001 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:** Public comments must be received on or before June 11, 2001.

**ADDRESSES:** Comments on the proposed recreational specifications should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298.

Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring 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. The EA/RIR/IRFA is accessible via the Internet at <http://www.nero.nmfs.gov/ro/doc/nero.html>.

**FOR FURTHER INFORMATION CONTACT:** Allison Ferreira, Fishery Management Specialist, (978) 281-9103, fax (978) 281-9135, e-mail [allison.ferreira@noaa.gov](mailto:allison.ferreira@noaa.gov).

**SUPPLEMENTARY INFORMATION:****Background**

The Fishery Management Plan for 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. The FMP has established Monitoring Committees (Committees) for each of the three fisheries, consisting of representatives from the Atlantic States Marine Fisheries Commission (Commission), the Mid-Atlantic Fishery Management Council (Council), the New England and South Atlantic Fishery Management Councils, and NMFS. The FMP and its implementing regulations require the Committees to review annually scientific and other relevant information, and to recommend measures necessary to achieve the recreational harvest limits established for the summer flounder, scup, and black sea bass fisheries. The FMP limits these measures to minimum fish sizes, possession limits, and closed seasons. The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass 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 decision, and forwards its recommendation to NMFS.

For several reasons the rulemaking process that would have established recreational measures for these fisheries for the year 2000 was not completed. NMFS published proposed measures for summer flounder and black sea bass on August 16, 2000 (65 FR 49959) with comments accepted through September 15, 2000. In the meantime, the Council had met in August 2000 to begin the process for the fishing year that began January 1, 2001. NMFS determined that publication of measures for 2000 so late in the year would provide no conservation benefit and could create confusion; therefore, NMFS did not publish a final rule.

Final specifications for the 2001 scup and black sea bass fisheries were published at 66 FR 12902, March 1, 2001, and for the summer flounder fishery at 66 FR 16151, March 23, 2001. These specifications included a coastwide recreational harvest limit of 7.16 million lb (3.25 million kg) for summer flounder, 1.77 million lb (0.803 million kg) for scup, and 3.148 million lb (1.43 million kg) for black sea bass. Those specifications did not establish recreational measures since final recreational catch data were not available when the Council made its recreational harvest limit recommendation to NMFS.

**Summer Flounder**

The final specifications established a Total Allowable Landings (TAL) for summer flounder of 17.91 million lb (8.125 million kg), consistent with the emergency action taken on August 2, 2000 (65 FR 47648), in response to the April 25, 2000, Court Order in *NRDC v. Daley*. The specifications divided the summer flounder TAL into a commercial quota of 10.75 million lb (4.877 million kg) and a recreational harvest limit of 7.16 million lb (3.248 million kg).

Although NMFS did not publish final Federal recreational measures for 2000, most of the coastal states from Maine through North Carolina, acting under the Commission's Interstate Fishery Management Plan (IFMP), implemented a 15.5-inch (39.37-cm) total length (TL) minimum fish size, an 8-fish possession limit, and an open season from May 10 through October 2. Despite these measures, 2000 Marine Recreational Statistics Survey (MRFSS) data project recreational summer flounder landings to be 15.63 million lb (7.09 million kg), or more than double the established recreational harvest limit of 7.41 million lb (3.36 million kg) for 2000. Assuming recreational fishing effort in 2001 will be similar to 2000, the recreational measures need to reduce summer flounder recreational landings in 2001 by approximately 54 percent to achieve this recreational harvest limit. Therefore, the recreational measures need to further constrain the recreational summer flounder harvest in 2001.

In a meeting held on April 3, 2001, with NMFS, environmental groups, and other stakeholders, the Commission adopted a summer flounder quota consistent with the emergency action. In addition, the Commission's Summer Flounder Board chose to calculate the reduction needed in 2001 based on an average of recreational landings for the past 3 years (1998-2000), rather than on estimated 2000 landings (15.63 million lb (7.09 million kg)). By basing the 2001 reductions on this 3-year average of 12.16 million lb (5.52 million kg), the Commission will enact measures to achieve a 41-percent, as opposed to a 48-percent, reduction in recreational landings.

The Council recommended the following measures to NMFS at its December 12-14, 2000, meeting to achieve its 7.16 million-lb (3.248 million-kg) harvest limit: A 15.5-inch (39.27-cm) minimum fish size, a 3-fish possession limit, and an open season from May 25 through September 4 (i.e., a closed season from January 1 through

May 24 and from September 5 through December 31). These measures should reduce recreational landings by approximately 53 percent, assuming they are complied with 85 percent of the time.

### Scup

NMFS did not issue final recreational measures for scup in 2000. On January 12, 2000, the Council submitted its recommended annual recreational measures for scup to NMFS. The Council's submission included proposed scup measures of a 7-inch (17.78-cm) TL minimum fish size, a 50-fish possession limit, and no closed season for 2000. After careful review, NMFS rejected the Council's proposed scup measures on March 10, 2000, because the Council's submission indicated the proposed scup measures would result in landings in excess of the recreational harvest limit established for 2000. The Council did not submit revised measures for scup.

Although NMFS rejected the proposed scup measures submitted by the Council, many coastal states from Maine to North Carolina implemented these measures under the Commission's IFMP. MRFSS data project 2000 recreational scup landings to be 5.197 million lb (2.357 million kg), or more than four times greater than the recreational harvest limit established for 2000 (1.24 million lb (0.56 million kg)). Assuming recreational effort in 2001 is the same as 2000, the recreational measures need to reduce scup recreational landings in 2001 by approximately 66 percent to achieve the recreational harvest limit for 2001.

At its January 23–24, 2001, meeting, the Commission voted to calculate the reduction needed in 2001 based on an average of recreational scup landings for the past 3 years (1998–2000), rather than on estimated 2000 landings (5.197 million lb (2.357 million kg)). By basing the 2001 reductions on this 3-year average of 2.657 million lb (1.205 million kg), the Commission will enact measures to achieve about a 33-percent, as opposed to a 66-percent, reduction in recreational landings.

At its December 12–14, 2000, meeting, the Council recommended the following recreational measures for scup to achieve the recreational harvest limit: A 9-inch (22.86 cm) TL minimum fish size, a 50-fish possession limit, and an open season from August 15 through October 31 (i.e., a closed season from January 1 through August 14 and from November 1 through December 31). These measures should reduce recreational scup landings by approximately 60 percent, assuming

they are complied with 85 percent of the time.

### Black Sea Bass

The final specifications for 2001 for black sea bass established a recreational harvest limit of 3.15 million lb (1.43 million kg), the same as for 2000. MRFSS data project 2000 black sea bass landings to be 4.291 million lb (1.95 million kg), or 36 percent greater than the harvest limit established for 2000. Assuming recreational effort in 2001 is similar to 2000, the recreational measures need to reduce black sea bass recreational landings by approximately 27 percent to achieve the harvest limit established for 2001.

At its December 12–14, 2000, meeting, the Council recommended the following measures to NMFS to achieve the recreational harvest limit: An 11-inch (27.94-cm) TL minimum fish size, a 25-fish possession limit, and an open season from January 1 through February 28 and from May 10 through December 31 (i.e., a closed season from March 1 through May 9). At this meeting, the Commission's Black Sea Bass Board recommended the same measures to the Commission. These measures should reduce black sea bass landings by approximately 26 percent in 2001, assuming they are complied with 85 percent of the time.

### Classification

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

The Council and NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A copy of the complete IRFA can be obtained from the Northeast Regional Office of NMFS (see **ADDRESSES**) or via the Internet at <http://www.nero.nmfs.gov/ro/doc/nero.html>. A summary of the analysis follows:

This preamble includes a description of the action, why it is being considered, and the legal basis for this action. This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

The Council's IRFA analysis examined the economic impacts of three alternative sets of recreational management measures for the summer flounder, scup, and black sea bass fisheries: A preferred alternative and two non-preferred alternatives. The preferred alternative consists of the measures recommended by the Council for the summer flounder, scup and black sea bass fisheries and is included in this proposed rule. Non-preferred Alternative 1 consists of measures

recommended by the Monitoring Committees for summer flounder and scup and of a restrictive set of alternative black sea bass measures. Non-preferred Alternative 2 would maintain 2000 measures for all three fisheries (status-quo).

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 they are fishing in Federal or in state waters. The Council estimates that the proposed measures could affect 694 vessels with a Federal charter/party permit for summer flounder, scup and/or black sea bass. Only 364 of these vessels reported actively participating in the recreational summer flounder, scup, and/or black sea bass fisheries in 1999.

The Council's analysis assessed various management measures from the standpoint of determining the changes in revenue on party/charter vessels. Since data on costs and revenues were not available, the analysis estimated revenues for party/charter vessels participating in the summer flounder, scup and/or black sea bass fisheries by employing various assumptions. The Council analyzed the effects of measures by employing quantitative approaches to the extent possible. Where quantitative data were not available, the Council conducted qualitative analysis.

Projected MRFSS data indicate that an estimated 1.626 million trips were taken by anglers aboard party/charter vessels in 2000 in the Northeast Region. The summer flounder recreational measures proposed under the preferred alternative for the 2001 fishing year would have affected about 2.64 percent of those trips in 2000. Specifically, 42,916 angler trips taken aboard party/charter vessels in 2000 landed at least one summer flounder that was smaller than 15.5 inches (39.7 cm) TL, or landed more than 3 summer flounder, or landed at least one summer flounder during the proposed closed season (January 1 to May 24 and September 5 to December 31). Assuming that angler effort and catch rates in 2001 are similar to 2000, the analysis projects the proposed reduction in the summer flounder possession limit and extension of the closed season to affect approximately 2.64 percent of the party/charter fishing effort in 2001. The analysis estimates vessel revenues associated with these trips by multiplying the number of potentially affected trips in 2001 (42,916) by the average fee paid by anglers in the Northeast region (\$39.09).

The average party/charter fee for 2001 is based on the average fee paid by anglers in 1998 calculated from information collected through an economic supplement to the NMFS MRFSS. As a result, total potential revenue loss could be up to \$1,677,586 (42,916 x \$39.09). Assuming the same number of party/charter vessels that participated in 1999 (318 vessels) would also participate in the summer flounder fishery in 2001, the average potential revenue loss per vessel for the preferred alternative could be up to \$5,275 (\$1,677,586/318).

Under the first non-preferred summer flounder alternative (16-inch minimum fish size, 3-fish possession limit, and an open season), the analysis estimated that 2.72 percent of trips aboard party/charter vessels would be affected, assuming angler effort and catch rates in 2001 are similar to 2000. Specifically, the analysis projects 44,216 angler trips taken aboard party/charter vessels in 2001 to land at least one summer flounder smaller than 16 inches (40.64 cm) TL, land more than 3 summer flounder, or land at least one summer flounder during the proposed closed season (January 1 to May 17 and September 15 to December 31). Total party/charter revenues associated with these trips are estimated to be \$1,728,403 (44,216 x \$39.09). Assuming the same number of party/charter vessels will participate in the 2001 summer flounder fishery that participated in 1999 (318 vessels), the average potential revenue loss per vessel for the first non-preferred alternative could be up to \$5,435 (\$1,728,403 divided by 318).

Losses of this magnitude (as estimated for the preferred and first non-preferred alternatives) are unlikely to occur, given that anglers will continue to have the ability to engage in catch and release fishing for summer flounder and that numerous alternative target species are available to anglers. Unfortunately, very little information is available to empirically estimate how sensitive the affected party/charter boat anglers might be to the proposed regulations. In addition, only 7.3 percent of recreational summer flounder landings come from the Exclusive Economic Zone (EEZ). Federal measures apply to federally permitted vessels wherever they fish. However, the states, through the Commission, will likely implement different measures for summer flounder, since the Commission has adopted a "target" that is a smaller percent reduction in landings in 2001 (compared to 2000) than that adopted by the Council for 2001. Given these factors, the demand for recreational party/charter trips targeting summer

flounder should not be significantly affected by the preferred and first non-preferred alternatives. Thus, the monetary impacts per vessel should be considerably lower than estimated above.

The second non-preferred summer flounder alternative maintains the status quo at a 15.5-inch (39.37 cm) TL minimum fish size, an 8-fish possession limit, and an open season from May 10 to October 2. Although NMFS did not publish a final rule implementing these measures, most of the coastal states from Maine to North Carolina implemented these measures in 2000. Assuming that angler effort in 2001 is similar to that in 2000 and that catch rates remain constant, this alternative would not affect any additional recreational fishing trips for summer flounder in 2001.

For scup, the analysis projected that the preferred 2001 recreational measures would affect approximately 1.44 percent of the total angler trips taken aboard party/charter vessels in 2001, assuming catch rates and angler effort in 2001 are similar to those in 2000. Specifically, the analysis projected 23,409 angler trips taken aboard party/charter vessels in 2001 to land at least one scup that is smaller than 9 inches (22.86 cm) TL, land more than 50 scup, or land at least one scup during the proposed closed season (January 1 to August 14 and November 1 to December 31). The analysis estimated vessel revenues associated with these trips by multiplying the average fee paid by anglers in Northeast region (\$39.09) by the affected trips (23,409). Thus, party/charter vessels could lose total revenues up to \$915,058 (23,409 x \$39.09) as a result of the preferred management measures. Analysis of Northeast logbook data for 1999 indicated that 126 party/charter vessels participated in the scup fishery. Assuming that the same number of vessels participate in the scup fishery in 2001, the average potential revenue loss per vessel for the preferred alternative could be up to \$7,262 (\$915,058 divided by 126).

The analysis projects that management measures proposed under the first non-preferred alternative for scup would affect approximately 1.4 percent of the total angler trips taken aboard party/charter boats in 2001, assuming that catch rates and angler effort in 2001 are similar to those in 2000. Specifically, the analysis projects that 22,898 angler trips taken aboard party charter vessels in 2001 would land at least one scup that is smaller than 9 inches (22.86 cm) TL, land more than 15 scup, or land at least one scup during the proposed closed season (January 1 to

June 30 and September 30 to December 31). Total party/charter revenues associated with these trips are estimated to be \$895,083 (22,898 x \$39.09). Assuming the same number of party/charter vessels will participate in the 2001 scup fishery that participated in 1999 (126 vessels), the average potential revenue loss per vessel for the first non-preferred alternative could be up to \$7,104 (\$895,083 divided by 126).

Losses of this magnitude (as estimated for the preferred and first non-preferred alternatives) are unlikely to occur for the same reasons noted earlier for summer flounder (catch and release, alternative species). Furthermore, the states, through the Commission, will be implementing alternative measures for scup. The Commission voted to enact measures to reduce scup landings by only 33 percent based on average landings over the past 3 years at its January 23-24, 2001, meeting. While a larger portion of the recreational scup fishery occurs in the EEZ than in the case of summer flounder, recreational fishermen catch only 13.4 percent of recreational scup landings from the EEZ. Given these factors, the demand for recreational party/charter trips targeting scup should not be significantly affected by the preferred and first non-preferred alternatives. Thus, the monetary impacts per vessel should be considerably lower than estimated above.

The second non-preferred alternative for scup maintains the status quo at a 50-fish possession limit, a 7-inch (17.78 cm) TL minimum fish size, and no closed season. Although NMFS did not publish a final rule implementing these measures, most of the coastal states from Maine to North Carolina implemented these measures in 2000. Assuming that angler effort in 2001 is similar to that in 2000 and that catch rates remain constant, the second non-preferred alternative would not affect any additional recreational fishing trips for scup in 2001.

For black sea bass, the analysis estimated that 0.09 percent of the trips aboard party/charter vessels in 2000 (1.626 million trips) would have been affected by the preferred 2001 recreational measures, assuming catch rates and angler effort in 2001 are similar to those in 2000. In other words, the analysis projects that 1,463 angler trips aboard party/charter vessels in 2001 would land at least one black sea bass that is smaller than 11 inches (27.94 cm) TL, land more than 25 black sea bass, or land at least one black sea bass during the proposed closed season (March 1 through May 9). The analysis determined total party/charter vessel

revenues associated with these trips by multiplying the number of potentially affected trips in 2001 (1,463) by the average fee paid by anglers (\$39.09). Thus, adoption of the preferred management measures could reduce total party/charter vessel revenues by up to \$57,189 (1,463 x \$39.09). Analysis of Northeast logbook data indicated that 261 party/charter vessels participated in the recreational black sea bass fishery in 1999. Assuming the same number of vessels will participate in this fishery in 2001, the average potential revenue loss per vessel for the preferred alternative could be up to \$219 (\$57,189 divided by 261).

Under the first non-preferred black sea bass alternative, the analysis estimated that 0.83 percent of the trips aboard party/charter vessels in 2000 would have been affected by these measures in 2001, assuming catch rates and angler effort in 2001 are similar to those in 2000. In other words, the analysis projects that 13,492 angler trips taken aboard party/charter vessels in 2001 would land at least one black sea bass that is smaller than 10 inches (25.4 cm) TL, land more than 15 black sea bass, or land at least one black sea bass during the proposed closed season (January 1 through May 31 and November 25 through December 31). The analysis determined total party/charter vessel revenues associated with these trips to be \$527,402 (13,492 x 261). Assuming the same number of vessels will participate in the black sea bass fishery in 2001 as in 2000 (261 vessels), the average potential revenue loss per vessel for the first non-preferred alternative could be up to \$2,021 (\$527,402 divided by 261).

Losses of this magnitude (as estimated for the preferred and first non-preferred alternatives) are unlikely to occur for the same reasons noted earlier for summer flounder (catch and release, alternative species).

The second non-preferred alternative for black sea bass maintains the status quo at a 10-inch (25.4 cm) TL minimum fish size with no size or possession limits. Although NMFS did not publish a final rule implementing these measures, most coastal states from Maine to North Carolina implemented these measures in 2000. Assuming angler effort in 2001 is similar to that in 2000 and catch rates remain constant, the second non-preferred alternative would not affect any additional recreational fishing trips for black sea bass in 2001.

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

Fisheries, Fishing, Reporting and recordkeeping requirements

Dated: May 19, 2001.

**William T. Hogarth,**  
*Acting 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 § 648.14, paragraphs (a)(80) and (u)(2) are revised to read as follows:

**§ 648.14 Prohibitions.**

(a) \* \* \*

(80) Possess scup in or harvested from the EEZ north of 35°15.3' N. lat. in an area closed, or before or after a season established pursuant to § 648.122, or in excess of the possession limit established pursuant to § 648.125.

\* \* \* \* \*

(u) \* \* \*

(2) Possess black sea bass in other than a box specified in § 648.145 (d) if fishing with nets having mesh that does not meet the minimum mesh-size requirement specified in § 648.144 (a).

\* \* \* \* \*

3. Section 648.102 is revised to read as follows:

**§ 648.102 Time restrictions.**

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 only from May 25 through September 4. 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) The minimum size for summer flounder is 15.5 inches (39.37 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.

\* \* \* \* \*

5. In § 648.105, paragraph (a) is revised to read as follows:

**§ 648.105 Possession restrictions.**

(a) No person shall possess more than three 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. Persons aboard a commercial vessel that is not eligible for a summer flounder moratorium permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a summer flounder moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.100.

\* \* \* \* \*

6. In § 648.122, revise the section heading and add paragraph (g) 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 fish for scup from August 15 through October 31. This time period may be adjusted pursuant to the procedures in § 648.120.

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

**§ 648.124 Minimum fish sizes.**

\* \* \* \* \*

(b) The minimum size for scup is 9 inches (22.9 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.

\* \* \* \* \*

8. In § 648.125, paragraph (a) is revised to read as follows:

**§ 648.125 Possession limit.**

(a) No person shall possess more than 50 scup in, or harvested from the EEZ unless that person is the owner or operator of a fishing vessel issued a scup moratorium permit, or is issued a scup dealer permit. Persons aboard a commercial vessel that is not eligible for a scup moratorium permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a scup moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This

possession limit may be adjusted pursuant to the procedures in § 648.120.

\* \* \* \* \*

9. 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 fish for black sea bass from March 1 through May 9. This time period may be adjusted pursuant to the procedures in § 648.140.

10. In § 648.143, the first sentence of paragraph (b) is revised to read as follows:

**§ 648.143 Minimum sizes.**

\* \* \* \* \*

(b) The minimum size for black sea bass is 11 inches (27.94 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. \* \* \*

\* \* \* \* \*

11. In § 648.145, the introductory paragraph is removed, existing paragraphs (a), (b) and (c) are redesignated as paragraphs (b),(c), and (d), and a new paragraph (a) is added to read as follows:

**§ 648.145 Possession limit.**

(a) No person shall possess more than 25 black sea bass in, or harvested from the EEZ unless that person is the owner or operator of a fishing vessel issued a black sea bass moratorium permit, or is issued a black sea bass dealer permit. Persons aboard a commercial vessel that is not eligible for a black sea bass moratorium permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a black sea bass moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.140.

\* \* \* \* \*

[FR Doc. 01-13288 Filed 5-24-01; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 010510121-1121-01; I.D. 012601B]

RIN 0648-AN23

**Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Definition of Length Overall of a Vessel**

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

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

**SUMMARY:** NMFS proposes to clarify the definition of length overall (LOA) of a vessel. This would provide unambiguous guidance to vessel owners in determining a vessel's LOA for purposes of Federal fisheries management programs and to facilitate NMFS' and the U.S. Coast Guard's (USCG) enforcement of LOA requirements in the exclusive economic zone (EEZ) off Alaska. The action is intended to further the goals and objectives of the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska and the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area.

**DATES:** Comments must be received by June 25, 2001.

**ADDRESSES:** Written comments should be sent to Sue Salvesson, Assistant Administrator, Sustainable Fisheries Division, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to the Federal Building, Fourth Floor, 709 West 9th Street, Juneau, AK, and marked Attn: Lori Gravel. Comments also may be sent via facsimile (fax) to 907-586-7465. Comments submitted by e-mail or the internet will not be accepted. Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) are available from the same address or by calling the Alaska Region, NMFS, at 907-586-7228.

**FOR FURTHER INFORMATION CONTACT:** Patsy A. Bearden or Jim Hale, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The domestic groundfish fisheries in the EEZ off Alaska are managed by NMFS under the FMPs. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act

(Magnuson-Stevens Act). Regulations governing the Alaska groundfish fisheries appear at 50 CFR parts 600 and 679. This proposed action would clarify the definition of vessel LOA, remove the definitions of stem and stern, and add a definition for bulwarks.

Presently, the definition of LOA requires measurement from the "foremost part of the stem" to the "aftermost part of the stern." As illustrated by Figure 6 of 50 CFR part 679, this definition is intended to be an end-to-end measurement of the vessel and implicitly include the bulwarks of a vessel. For purposes of commercial fishing in the EEZ off Alaska, vessel LOA was first defined by the final rule implementing the observer program (55 FR 4839, February 12, 1990). Figure 6 was added to 50 CFR part 679 by a subsequent interpretive rule and technical amendment (57 FR 43621, September 22, 1992) that intended to clarify that definition. Although NMFS does not explicitly mention the term "bulwarks" in that interpretive rule/technical amendment, the preamble to the rule provides a technical description and interpretation of the term "stem" as "the foremost position of the vessel, a section of timber or cast, forged, or rolled metal to which the sides of a vessel are united at the fore end" (57 FR 43622). The illustration amended to the regulations as Figure 6 clearly depicts the inclusion of bulwarks in LOA measurement. NMFS intended the interpretative language and the illustration of Figure 6 to clarify the definition of LOA to include bulwarks. Moreover, NMFS enforcement policy has always included in any LOA measurement bulwarks that constitute the foremost or aftermost part of a vessel.

NMFS recognizes now that the definition of LOA still requires clarification. Despite the visual representation of bulwarks as part of the LOA in Figure 6, the language of the former interpretative rule is overly technical and the terms "stem" and "stern" remain open to misinterpretation. This action would remove "stem" and "stern" from the definition of LOA, add the term "bulwarks," and thus clarify the original intent of the regulation that LOA measurement be an end-to-end measurement of a vessel.

Maritime regulations of other Federal agencies such as the USCG often use similar terminology to define LOA. However, the terms "foremost part of the stem" and "aftermost part of the stern" may or may not implicitly include bulwarks in the definition of overall vessel LOA. Federal regulators