

effectively adjusting the Purse Seine category quota for 2014 to its base level. This is consistent with NMFS' specifications practice in the past several years of keeping the directed categories at their baseline quotas, while still providing a reasonable amount of quota for pelagic longline operations as the fleet continues directed fishing operations for swordfish and other tunas.

NMFS does not consider accounting for dead discards within the Purse Seine category to be setting a precedent as characterized by the commenter. Through Amendment 7, NMFS is considering how best to reduce and account for BFT dead discards, as well as methods to improve reporting and monitoring of all BFT discards and landings (i.e., for all gear types) in the future. As stated in the proposed rule, depending on the management measures implemented in the Amendment 7 final rule, the quota specifications process may be substantially different in upcoming years.

#### *Other Issues*

In addition to the above comments specifically on the content of the proposed rule, other comments raised issues beyond the scope of this rule, regarding HMS management measures generally, as well as those specifically considered in Amendment 7. Specifically, commenters articulated: support for NMFS to eliminate the annual percentage limit on the total weight of large medium BFT (73 to less than 81 inches) that Purse Seine category vessels can harvest, which the commenters perceive as inconsistent with regulations that apply to other commercial categories, a cause of regulatory discards, and not based on current research on the size of bluefin at maturity; support for allowing Purse Seine category vessels to retain bluefin as small as the ICCAT minimum size (i.e., 47 inches); support for expanded research funding and improved access for researchers to biological samples; support for adaptive management of BFT fisheries for optimal economic, scientific, and conservation returns; full support for implementation of Amendment 7 as proposed; support for 100-percent observer coverage of Purse Seine vessels; opposition to pelagic longlining and harpooning of tunas; opposition to Mediterranean Sea bluefin harvests; and opposition to ICCAT deducting the U.S. 25-mt allocation for bycatch in the vicinity of the western/eastern Atlantic BFT management area boundary from the western Atlantic BFT Total Allowable Catch since 2002, when

that language was first added to the western Atlantic BFT Recommendation.

NMFS anticipates that Amendment 7 may address some of the issues raised in comments that were outside the scope of the 2014 BFT quota specifications. Some of the ICCAT issues raised involve international management and could not be addressed by the United States unilaterally. The remaining domestic management issues would have to be considered in the context of future management action(s). In addition to the formal regulatory process of proposed and final rulemaking, NMFS considers issues, discussed management ideas, and obtains public input in the context of the HMS Advisory Panel, which typically convenes twice a year at meetings that are open to the public.

#### **Classification**

The NMFS Assistant Administrator has determined that this final rule is consistent with the Magnuson-Stevens Act, ATCA, and other applicable law, and is necessary to achieve domestic management objectives under the 2006 Consolidated HMS FMP.

The final rule is exempt from the procedures of E.O. 12866 because this action contains no implementing regulations.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, NMFS has prepared a brochure summarizing fishery information and regulations for Atlantic tuna fisheries for 2014. This brochure also serves as the small entity compliance guide. Copies of the compliance guide are available from NMFS (see **ADDRESSES**).

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: July 1, 2014.

**Eileen Sobeck,**

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

[FR Doc. 2014-15773 Filed 7-3-14; 8:45 am]

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

[Docket No. 140403309-4529-02]

**RIN 0648-BE16**

#### **Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2014**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS is implementing management measures for the 2014 summer flounder, scup, and black sea bass recreational fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the fishing year. The intent of these measures is to prevent overfishing of the summer flounder, scup, and black sea bass resources.

**DATES:** Effective July 7, 2014.

**ADDRESSES:** Copies of the Supplemental Environmental Assessment (SEA) for the 2014 recreational management measures document, including the Supplemental Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis (SEA/RIR/IRFA) and other supporting documents for the recreational management measures are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the Internet at <http://www.nero.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Moira Kelly, Fishery Policy Analyst, (978) 281-9218.

#### **SUPPLEMENTARY INFORMATION:**

##### **General Background**

The summer flounder, scup, and black sea bass fisheries are managed

cooperatively by the Atlantic States Marine Fisheries Commission and the Mid-Atlantic Fishery Management Council, in consultation with the New England and South Atlantic Fishery Management Councils. The FMP and its implementing regulations, which are found at 50 CFR part 648, subparts A (general provisions), G (summer flounder), H (scup), and I (black sea bass), describe the process for specifying annual recreational management measures that apply in the Exclusive Economic Zone (EEZ). The states from North Carolina to Maine manage these fisheries within 3 nautical miles of their coasts, under the Commission's plan for summer flounder, scup, and black sea bass. The Federal regulations govern fishing activity in the EEZ, as well as vessels possessing Federal permits for summer flounder, scup, and/or black sea bass, regardless of where they fish.

A proposed rule to implement the 2014 Federal recreational measures for the summer flounder, scup, and black sea bass recreational fisheries was published in the **Federal Register** on May 9, 2014 (79 FR 26685). Additional background and information is provided in the preamble to the proposed rule and is not repeated here.

**2014 Recreational Management Measures**

In this rule, NMFS is implementing management measures for the 2014 summer flounder, scup, and black sea bass recreational fisheries. All minimum fish sizes discussed hereafter 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. For black sea bass, total length measurement does not include the caudal fin tendril. All possession limits discussed below are per person.

*2014 Recreational Management Measures*

This rule implements the following measures that would apply in the Federal waters of the EEZ and to all federally permitted party/charter vessels with applicable summer flounder, scup, or black sea bass permits regardless of where they fish: For summer flounder,

use of state-by-state conservation equivalency measures, which are the status quo measures; for scup, a 9-inch (22.9-cm) minimum fish size, a 30-fish per person possession limit, and an open season of January 1 through December 31; and, for black sea bass, a 12.5-inch (31.8-cm) minimum fish size, and a 15-fish per person possession limit for open seasons of May 19 through September 21 and October 18 through December 31.

Federal permit holders are reminded that, as a condition of their Federal permit, they must abide by the Federal measures, even if fishing in state waters. In addition, in instances where the state-implemented measures are different than the Federal measures, federally permitted vessels must adhere to the more restrictive of the two measures. This will be applicable for both the 2014 scup and black sea bass recreational fisheries.

**Summer Flounder Recreational Management Measures**

This final rule implements the use of conservation equivalency to manage the 2014 summer flounder recreational fishery. NMFS implemented Framework Adjustment 2 to the FMP on July 29, 2001 (66 FR 36208), to permit the use of conservation equivalency to manage the recreational summer flounder fishery. Conservation equivalency allows each state to establish its own recreational management measures to achieve its state harvest limit partitioned from the coastwide recreational harvest limit by the Commission. The combined effect of all of the states' management measures achieves the same level of conservation as would Federal coastwide measures, hence the term conservation equivalency. Framework Adjustment 6 (July 26, 2006; 71 FR 42315) allowed states to form regions for conservation equivalency in order to minimize differences in regulations for individuals fishing in adjacent waters. For 2014, the Commission's Summer Flounder Board voted to implement regional conservation equivalency for the first time. The regions are as follows: (1) Massachusetts; (2) Rhode Island; (3)

Connecticut, New York, and New Jersey; (4) Delaware, Maryland, and Virginia; and (5) North Carolina. This means that minimum fish sizes, possession limits, and fishing seasons developed and adopted by the five regions from Massachusetts to North Carolina will replace the Federal waters measures for 2014.

The Commission notified the NMFS Northeast Regional Administrator by letter dated May 19, 2014, that the 2014 summer flounder recreational fishery management measures (i.e., minimum fish size, possession limit, and fishing seasons) implemented by the regions described above have been reviewed by the Commission's Technical Committee and approved by the Commission's Summer Flounder Management Board. The correspondence indicates that the Commission-approved management programs are projected to restrict 2014 recreational summer flounder coastwide landings consistent with the state-specific requirements established by the Technical Committee and Board through the Commission process.

Based on the recommendation of the Commission, the NMFS Greater Atlantic Regional Administrator finds that the recreational summer flounder fishing measures proposed to be implemented by the approved regions for 2014 are the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.104(b), 648.105, and 648.106(a), respectively. According to § 648.107(a)(1), vessels subject to the recreational fishing measures of this part and landing summer flounder in a state with an approved conservation equivalency program shall not be subject to Federal measures, and shall instead be subject to the recreational fishing measures implemented by the state in which they land. Section 648.107(a) has been amended to recognize state-implemented measures as conservation equivalent of the coastwide recreational management measures for 2014. The 2014 summer flounder management measures adopted by the individual states vary according to the state of landing, as specified in Table 1.

**TABLE 1—2014 COMMISSION APPROVED STATE-BY-STATE CONSERVATION EQUIVALENT RECREATIONAL MANAGEMENT MEASURES FOR SUMMER FLOUNDER**

State	Minimum size (inches)	Minimum size (cm)	Possession limit	Open season
Massachusetts .....	16	40.6	5 fish .....	May 22–September 30.
Rhode Island .....	18	45.7	8 fish .....	May 1–December 31.
Connecticut* .....	18	45.7	5 fish .....	May 17–September 21.

TABLE 1—2014 COMMISSION APPROVED STATE-BY-STATE CONSERVATION EQUIVALENT RECREATIONAL MANAGEMENT MEASURES FOR SUMMER FLOUNDER—Continued

State	Minimum size (inches)	Minimum size (cm)	Possession limit	Open season
New York .....	18	45.7	4 fish .....	May 17–September 21.
New Jersey * .....	18	45.7	5 fish .....	May 23–September 27.
Delaware .....	16	40.6	4 fish .....	All year.
Maryland .....	16	40.6	4 fish .....	All year.
Potomac River Fisheries Commission .....	16	40.6	4 fish .....	All year.
Virginia .....	16	40.6	4 fish .....	All year.
North Carolina .....	15	38.1	6 fish .....	All year.

**Note:** At 42 designated shore sites in Connecticut, anglers may keep 5 fish at 16.0 inches (40.6 cm), May 15–September 1. At 1 designated pilot site in New Jersey, anglers may keep 2 fish at 16.0 inches (40.6 cm), May 23–September 27.

In addition, this action implements the coastwide measures (18-inch (45.7-cm) minimum size, 4-fish possession limit, May 1–September 30 open fishing season), to become effective January 1, 2015, when conservation equivalency expires.

#### Scup Recreational Management Measures

This final rule implements the Council and Commission's recommended scup recreational management measures for 2014 in Federal waters. The 2014 scup recreational harvest limit is 7.03 million lb (3,188 mt), as published in the 2013 and 2014 specifications final rule (December 31, 2012; 77 FR 76942). Final 2013 scup recreational landings are 5.11 million lb (2,319 mt), well below the 2013 recreational harvest limit; therefore, no reduction in landings is needed. The measures for the 2014 scup recreational fishery are for a 9-inch (22.9-cm) minimum fish size, a 30-fish per person possession limit, and an open season of January 1 through December 31.

#### Black Sea Bass Recreational Management Measures

This final rule implements recreational management measures to reduce landings for black sea bass. The 2014 black sea bass recreational harvest limit is 2.26 million lb (1,025 mt). The 2013 black sea bass recreational landings limit was the same, and the projected landings at the time that the Council and Board met to recommend 2014 measures were 2.46 million lb (1,115 mt). This would have required a 7-percent reduction in 2014 landings relative to 2013. Final Marine Recreational Information Program (MRIP) data indicate that the 2013 recreational black sea bass landings were approximately 2.33 million lb (1,058 mt), or 3.2 percent over the 2013 and 2014 recreational harvest limits.

In 2012, recreational black sea bass catch exceeded the 2012 annual catch limit of 2.52 million lb (1,143 mt) by 129 percent, with total catch estimates approximately 5.78 million lb (2,620 mt). As a result, the recently implemented recreational accountability measure needs to be addressed for the 2014 fishing year. The Council's recreational accountability measure system requires, for stocks in a healthy condition such as black sea bass, that the Council take into account the overage and the performance of the management measures when setting a subsequent year's management measures. The Council contends that utilizing the process that they have always used (i.e., comparing last year's landings to this year's harvest limit) is in compliance with the accountability measure.

However, NMFS disagrees with the Council's interpretation. The recreational accountability measures were revised last year in response to a pending pound-for-pound payback that would have otherwise been implemented for this year. In the Omnibus Recreational Accountability Measures Amendment (Final Rule, December 19, 2013; 78 FR 76759), the accountability measure was described as resulting in the Council doing something different than what had previously been done if triggered. That is, the accountability measure requires that the Council take the overage and the poor performance of the management measures "into account." This may result in the subsequent year's management measures being "less liberal, or more restrictive than otherwise would have been, had the overage not occurred." This could also mean that the process by which the management measures are set (updated data, more precise estimates of catch per angler per day, etc.) has been improved upon as a result of the poor performance

of the management measures, or other decisions or improvements that allow the Council to make a more informed decision and implement management measures with more confidence in their performance. The Council has not sufficiently demonstrated how the "performance review" included the overage from 2012 when setting the 2014 management measures. It appears that the Council's process was the same as it would have been had the overage not occurred and the accountability measure not been triggered. The Council submitted a comment requesting an additional 6 days be added to the September/October season to achieve only a 3-percent reduction in landings, instead of the originally recommended 7 percent reduction, relative to 2013. Prior to the public comment period, the Commission requested that NMFS take into consideration the final 2013 MRIP estimates when taking final action.

Because the reduction in recreational black sea bass landings required from 2013 to 2014 is only 3.2 percent based on final MRIP estimates, and based on comments received from the Council and the Commission, NMFS has determined that measures expected to result in a reduction in landings of approximately 5-percent has a higher likelihood of preventing the recreational harvest limit from being exceeded again, without being unnecessarily punitive. As a result, this final rule implements measures that are different than the proposed measures. The Council's originally proposed measures (12.5-inch (31.8-cm) minimum fish size, 15-fish per person bag limit, and open seasons of May 19 through September 18 and October 18 through December 31) would result in a 7-percent reduction in landings relative to 2013. This rule implements the same minimum size and possession limit as proposed, but adds 3 days in September, so that the fishing season runs from May 19 through

September 21 and October 18 through December 31, 2014. This is expected to result in a 5-percent reduction in landings and complies with the accountability measure, while responding to the Council's and the Commission's comments to base the final measures on the final MRIP landings information.

### Comments and Responses

NMFS received three comments regarding the proposed recreational management measures. Two of the commenters both disagreed with the landings information, specifically for black sea bass, but additionally mentioned displeasure over reduced quotas on the recreational but not commercial fishery. In addition, the commenters were concerned about the stock becoming overfished, and that the commercial fishery was able to land more than the recreational fishery. The black sea bass stock is not overfished, and overfishing is not occurring. In addition, the recreational black sea bass fishery has a greater share of the overall quota than the commercial fishery. Both of these commenters appeared to reside in the state of Georgia, and may have been confusing this black sea bass fishery with the one managed by the South Atlantic Fishery Management Council's Snapper/Grouper FMP.

NMFS received a comment letter from the Mid-Atlantic Council's Executive Director further explaining their interpretation of the accountability measure for black sea bass. (See above for more information.) The Council's comment also requested that we extend the black sea bass season by 6 additional days in September. This would be expected to result in a 3-percent reduction in landings, instead of 7 percent. We also received a letter from the Commission, although prior to the formal comment period, requesting that we consider the updated landings estimates when determining the necessary reduction for the black sea bass measures. As described above, while we disagree with the Council's interpretation of their accountability measures, NMFS is implementing measures taking into account both the Council's and the Commission's comments. The proposed measures were initially derived when a 7-percent reduction in landings was believed to be needed. Final MRIP landings information indicates that the 2013 recreational harvest limit was only exceeded by 3.2 percent. If the accountability measure not been triggered by the overage in 2012, all that would be needed is the 3-percent reduction. Implementing only a 3-

percent reduction in landings, based upon the same data and the same process, without additional confidence that the measures would be expected to perform better, would not comply with the accountability measure necessary for this fishing year. As a result, this final rule implements measures that would be expected to result in a 5-percent reduction in landings.

### Changes From the Proposed Rule

As described above, in response to comments received from the Council and the Commission, the black sea bass management measures implemented by this final rule are different than those proposed. The final black sea bass recreational management measures are as follows: 12.5-inch (31.8-cm) minimum fish size; 15 fish per person bag limit; and open seasons of May 19 through September 21 and October 18 through December 31.

### Classification

The Regional Administrator, Greater Atlantic Region, NMFS, determined that this final rule implementing the 2014 summer flounder, scup, and black sea bass recreational management measures is necessary for the conservation and management of the summer flounder, scup, and black sea bass fisheries, and is consistent with the Magnuson-Stevens Act and other applicable laws.

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

### Administrative Procedure Act

The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement for a 30-day delay in effectiveness under the provisions of section 553(d) of the APA because a delay in its effectiveness would not serve any legitimate purpose, while unfairly prejudicing federally permitted charter/party vessels. This action will decrease the minimum size for the recreational scup fishery in Federal waters and allow federally permitted charter/party vessels to be subject to the new summer flounder measures in their respective states. Because some states' summer flounder fisheries are already open or will open during the 30-day period, federally permitted charter/party vessels would be restricted to the existing summer flounder coastwide regulations (18-inch minimum size and a 2-fish per person possession limit) until the Federal regulations are effective. This would unnecessarily disadvantage the federally permitted vessels, which would be subject to the more restrictive measures while state-licensed vessels could be

engaged in fishing activities under this year's management measures. If this final rule were delayed for 30 days, the fishery would likely forego some amount of landings and revenues during the delay period.

While these restrictions would be alleviated after this rule becomes effective, fishermen may be not able to recoup the lost economic opportunity of foregone trips that would result from delaying the effectiveness of this action. Finally, requiring a 30-day delay before the final rule becomes effective would not provide any benefit to the regulated parties. Unlike actions that require an adjustment period to comply with new rules, charter/party operators will not have to purchase new equipment or otherwise expend time or money to comply with these management measures. Rather, complying with this final rule simply means adhering to the published management measures for each relevant species of fish while the charter/party operators are engaged in fishing activities.

In addition, this rule decreases the possession limit for black sea bass, which is an important factor in determining appropriate measures that allow the fishery to achieve, but not exceed, recreational harvest limit. The black sea bass fishery started on May 19, 2014, with a 20-fish possession limit. This rule implements a 15-fish possession limit. Leaving the larger trip limit in place for longer than is necessary could result in the recreational harvest limit being exceeded, potentially compromising the long-term health of the resource and the conservation objectives of the FMP.

For these reasons, the Assistant Administrator finds good cause to waive the 30-day delay and to implement this rule publication in the **Federal Register**.

### Final Regulatory Flexibility Analysis

This final rule includes the FRFA prepared pursuant to 5 U.S.C. 604(a). The FRFA incorporates the economic impacts described in the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, and a summary of the analyses completed to support the action. Copies of the EA/RIR/IRFA and SEA are available from the Council and NMFS (see **ADDRESSES**).

### Statement of Objective and Need

A description of the reasons why the 2014 recreational management measures for summer flounder, scup, and black sea bass are being implemented, and the objectives of and legal basis for this final rule implementing both actions are

explained in the preambles to the proposed rule and this final rule, and are not repeated here.

*A Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Proposed Rule as a Result of Such Comments*

Three comments were received on the proposed rule; however, none addressed the IRFA or economic analysis and the changes to the rule were not related to the economic analysis.

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

The recreational management measures could affect any recreational angler who fishes for summer flounder, scup, or black sea bass in the EEZ or on a party/charter vessel issued a Federal permit for summer flounder, scup, and/or black sea bass. However, the only regulated entities affected by this action are party/charter vessels issued a Federal permit for summer flounder, scup, and/or black sea bass, and so the RFA analyses are focused on the expected impacts on this segment of the affected public. These vessels are all considered small entities for the purposes of the RFA, i.e., businesses in the recreational fishery with gross revenues of up to \$7.0 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 fishing opportunities by individual recreational anglers may be impacted by this action, they are not considered small entities under the RFA.

The Council estimated that the measures could affect any of the 777 vessels possessing a Federal charter/party permit for summer flounder, scup, and/or black sea bass in 2012, the most recent year for which complete permit data are available. However, only 346 vessels reported active participation in the 2012 recreational summer flounder, scup, and/or black sea bass fisheries. Further, it was determined, based on improved ownership information, that there were 326 unique fishing business entities. The vast majority of these fishing businesses were solely engaged in for-hire fishing, but some also earned revenue from shellfish and/or finfish fishing. The highest percentage of annual gross revenues though for all 326 fishing businesses was from for-hire fishing. In other words, the revenue

from for-hire fishing was greater than the revenue from shellfishing and the revenue from finfish fishing for all 326 business entities. Therefore, all of the affected business entities are classified as for-hire business entities in this analysis.

According to the SBA size standards small for-hire fishing businesses are defined as firms with annual receipts of up to \$7 million. Average annual gross revenue estimates calculated from the most recent 3 years (2010–2012) indicate that none of the 326 business entities earned more than \$2.4 million from all of their fishing activities (for-hire, shellfish, and finfish). Therefore, all of the affected business entities are considered “small” by the SBA size standards; thus, this action will not disproportionately affect small versus large entities.

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

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

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

In seeking to minimize the impact of recreational management measures (minimum fish size, possession limit, and fishing season) on small entities (i.e., Federal party/charter permit holders), NMFS is constrained to implementing measures that meet the conservation objectives of the FMP and Magnuson-Stevens Act. Management measures must provide sufficient constraints on recreational landings, such that the established recreational harvest limits have a low likelihood of being exceeded, which might lead to overfishing the stock. This rule maintains the status quo recreational management measures for summer flounder, implements less restrictive management measures for scup, and slightly more restrictive measures for black sea bass in Federal waters.

*Summer flounder alternatives.* The alternatives examined by the Council and forwarded for consideration by NMFS consisted of the non-preferred alternative of coastwide measures (an 18-inch (45.7-cm) minimum fish size, a 4-fish per person possession limit, and open season from May 1 through September 30), and the preferred alternative of conservation equivalency (see Table 1 for measures) with a precautionary default backstop (status quo). These were alternatives 1 and 2, respectively, in the Council’s SEA/RIR/

IRFA. These two alternatives were determined by the Council to provide a high probability of constraining recreational landings to levels at or below the 2014 recreational harvest limit. Therefore, either alternative recreational management system could be considered for implementation by NMFS, as the critical metric of satisfying the regulatory and statutory requirements would likely be met by either.

Next, NMFS considered the recommendation of both the Council and Commission. Both groups recommended implementation of conservation equivalency, with a precautionary default backstop. For NMFS to disapprove the Council’s recommendation for conservation equivalency and substitute coastwide management measures, NMFS must reasonably demonstrate that the recommended measures are either inconsistent with applicable law or that the conservation objectives of the FMP will not be achieved by implementing conservation equivalency. NMFS does not find the Council and Commission’s recommendation to be inconsistent with the implementing regulations of the FMP at § 648.100 or the Magnuson-Stevens Act, including the 10 National Standards.

The additional metric for consideration by NMFS, applicable to the FRFA, is examination of the economic impacts of the alternatives on small entities consistent with the stated objectives of applicable statutes. As previously stated, both coastwide measures (alternative 1) and conservation equivalency (alternative 2) are projected to achieve the conservation objectives for the 2014 summer flounder recreational fishery. However, the economic impacts of the two alternatives are not projected to be equal in the Council’s analyses: The economic impacts on small entities under the coastwide measures management system would vary in comparison to the conservation equivalency system, dependent on the specific state wherein the small entities operate.

Quantitative analyses of the economic impacts associated with conservation equivalency measures are not available. This is because the development of the individual state measures occurs concurrent to the NMFS rulemaking process to ensure timely implementation of final measures for the 2014 recreational fishery; thus, the specific measures implemented by states are not available for economic impact analyses. Instead, qualitative methods were utilized by the Council to

assess the relative impact of conservation equivalency (alternative 2) to coastwide measures (alternative 1). The Council analysis concluded, and NMFS agrees, that conservation equivalency is expected to minimize impacts on small entities because individual states or regions can develop specific summer flounder management measures that allow the fishery to operate during each state's critical fishing periods while still achieving conservation goals.

NMFS is implementing the Council and Commission's recommended regional conservation equivalency measures because: (1) NMFS finds no compelling reason to disapprove the Council and Commission's recommended 2014 management system, as the management measures contained in conservation equivalency are projected to provide the necessary restriction on recreational landings to prevent the recreational harvest limit from being exceeded; and (2) the net economic impact to small entities on a coastwide basis are expected to be mitigated, to the extent practicable, for a much larger percentage of small entities.

*Scup alternatives.* NMFS is implementing the Council's preferred measures as the Federal water measures for the 2014 fishing year: A 9-inch (22.9-cm) minimum fish size; a 30-fish per person possession limit; and year-round open season. Similar to the summer flounder discussion, this suite of scup measures (alternative 2) provides the greatest economic opportunity for small entities from the alternatives available by providing the maximum fishing opportunity in Federal waters that also meets the requirements of the Magnuson-Stevens Act, the FMP, and achieves the conservation objectives for 2013. Alternative 1 for a 10.0-inch (25.4-cm) minimum fish size, 30-fish per person possession limit, and year-round open season contained measures that had higher impacts on small entities fishing in Federal waters, as it contains more restrictive measures than would be necessary to satisfy the management objectives, and thus this alternative was not implemented.

*Black sea bass alternatives.* As previously stated in the preamble, individual states have developed and implemented measures for use in state waters. This rule implement measures between the Council's preferred measures and the no action alternative: A 12.5-inch (31.8-cm) minimum fish size and a 15-fish possession limit for the May 19–September 21 and October 18–December 31 fishing seasons. These measures provide the greatest associated

economic opportunities to small entities of the measures considered for Federal waters that also meets the statutory and regulatory requirements for the 2014 fishery. The no action alternative (Alternative 1; 12.5-inch (31.8-cm) minimum fish size, a 20-fish per person possession limit, and open season of May 19 through October 14 and November 1 through December 31), does not satisfy the management objectives of the FMP, as a reduction in landings as compared to 2013 is necessary, and thus this alternative was not implemented. Further, this alternative does not comply with the accountability measure requirements of the FMP, and is inconsistent with the Magnuson-Stevens Act. Alternative 2 (the Council's preferred alternative; A 12.5-inch (31.8-cm) minimum fish size and a 15-fish possession limit for the May 19–September 21 and October 18–December 31 fishing seasons) is unnecessarily restrictive, given the final 2013 MRIP landings estimates.

#### *Small Entity Compliance Guide*

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as the small entity compliance guide was prepared and will be sent to all holders of Federal party/charter permits issued for the summer flounder, scup, and black sea bass fisheries. In addition, copies of this final rule and the small entity compliance guide are available from NMFS (see **ADDRESSES**) and at the following Web site: <http://www.nero.noaa.gov>.

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

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 1, 2014.

**Eileen Sobeck,**

*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. 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 2014 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—May 1 through September 30; minimum size—20 inches (50.8 cm); and possession limit—two fish.

■ 3. In § 648.126, paragraph (b) is revised to read as follows:

#### **§ 648.126 Scup minimum fish sizes.**

\* \* \* \* \*

(b) *Party/Charter permitted vessels and recreational fishery participants.*

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.

\* \* \* \* \*

■ 4. In § 648.145, paragraph (a) is revised to read as follows:

**§ 648.145 Black sea bass possession limit.**

(a) During the recreational fishing season specified at § 648.146, no person shall possess more than 15 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 may not retain more than 15 black sea bass during the recreational fishing season specified at § 648.146. 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 § 648.142.

\* \* \* \* \*

■ 5. Section 648.146 is revised to read as follows:

**§ 648.146 Black sea bass recreational fishing season.**

Vessels that are not eligible for a moratorium permit under § 648.4(a)(7), and fishermen subject to the possession limit specified in § 648.145(a), may only possess black sea bass from May 19 through September 21, and October 18 through December 31, unless this time period is adjusted pursuant to the procedures in § 648.142.

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