

(2) LPR devices operating under this section must confine their fundamental emission bandwidth within the 5.925–7.250 GHz, 24.05–29.00 GHz, and 75–85 GHz bands under all conditions of operation.

(f) Fundamental Emissions Limits

(1) All emission limits provided in this section are expressed in terms of Equivalent Isotropic Radiated Power (EIRP).

(2) The EIRP level is to be determined from the maximum measured power within a specified bandwidth.

(i) The EIRP in 1 MHz is computed from the maximum power level measured within any 1-MHz bandwidth using a power averaging detector;

(ii) The EIRP in 50 MHz is computed from the maximum power level measured with a peak detector in a 50-MHz bandwidth centered on the frequency at which the maximum average power level is realized.

(3) The EIRP limits for LPR operations in the bands authorized by this rule section are provided in the following table:

Frequency band of operation (GHz)	EIRP limit in 1 MHz (dBm)	EIRP limit in 50 MHz (dBm)
5.925–7.250 .....	–33	7
24.05–29.00 .....	–14	26
75–85 .....	–3	34

(g) Unwanted Emissions Limits

(1) All emission limits provided in this section are expressed in terms of Equivalent Isotropic Radiated Power (EIRP) and are computed based on the maximum average power level measured within any 1-MHz bandwidth.

(2) Unwanted emission limits applicable to LPR devices shall not exceed the general emission limits in § 15.209.

(h) Antenna Beamwidth

(1) LPR devices operating under the provisions of this section within the 5.925–7.250 GHz and 24.05–29.00 GHz bands must use an antenna with a maximum half-power beamwidth of 12 degrees.

(2) LPR devices operating under the provisions of this section within the 75–85 GHz band must use an antenna with a maximum half-power beamwidth of 8 degrees.

(i) Antenna Side Lobe Gain

(1) LPR devices operating under the provisions of this section must limit the side lobe antenna gain to –10 dBi for off-axis angles from the main beam of greater than 60 degrees.

(j) Measurement Procedures

(1) Radiated measurements of the fundamental emission bandwidth and power shall be made with maximum

main beam coupling between the LPR and test antennas (boresight).

(2) Measurements of the unwanted emissions radiating from an LPR shall be made utilizing elevation and azimuth scans to determine the location at which the emissions are maximized.

(3) All emissions at and below 960 MHz are based on measurements employing a CISPR quasi-peak detector.

(4) The fundamental emission bandwidth measurement shall be made using a peak detector with a resolution bandwidth of 1 MHz and a video bandwidth of at least 3 MHz.

(5) The provisions in § 15.35(b) and (c) of this part that require emissions to be averaged over a 100 millisecond period and that limit the peak power to 20 dB above the average limit do not apply to devices operating under this section.

(6) Compliance measurements of frequency-agile LPR devices shall be performed with any related frequency sweep, step, or hop function activated.

(7) Compliance measurements shall be made in accordance with the specific procedures published or otherwise authorized by the Commission.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 120321208–2010–01]

RIN 0648–BC07

#### Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2012

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

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

**SUMMARY:** NMFS proposes management measures for the 2012 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 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 by 5 p.m. local time, on May 15, 2012.

**ADDRESSES:** You may submit comments, identified by NOAA–NMFS–2012–0081, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking portal: <http://www.regulations.gov>. To submit comments via the e-Rulemaking Portal, first click the “Submit a Comment” icon, then enter NOAA–NMFS–2012–0081 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Submit a Comment” icon on the right of that line.

- **Fax:** (978) 281–9135, Attn: Comments on 2012 Proposed Summer Flounder, Scup, and Black Sea Bass Recreational Measures, NOAA–NMFS–2012–0081.

- **Mail and Hand Delivery:** Daniel S. Morris, Acting Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: “Comments on 2012 FSB Recreational Measures.”

**Instructions:** Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the Supplemental Environmental Assessment and Initial Regulatory Flexibility Analysis (SEA/IRFA) and other supporting documents for the recreational harvest measures, are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. The recreational harvest measures document is 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 under the provisions of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) developed by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission), in consultation with the New England and South Atlantic Fishery Management Councils. The management units specified in the FMP include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina (NC) northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35° E. 13.3' N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, NC) northward to the U.S./Canada border.

The Council prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations implementing the FMP appear at 50 CFR part 648, subparts A (general provisions), G (summer flounder), H (scup), and I (black sea bass). General regulations governing fisheries of the Northeastern U.S. also appear at 50 CFR part 648. States manage these three species within 3 nautical miles (4.83 km) of their coasts, under the Commission's plan for summer flounder, scup, and black sea bass. The applicable species-specific Federal regulations govern vessels and individual fishermen fishing in Federal waters of the exclusive economic zone (EEZ), as well as vessels possessing a summer flounder, scup, or black sea bass Federal charter/party vessel permit, regardless of where they fish.

**Recreational Management Measures Background**

The Council process for devising recreational management measures to recommend to NMFS for rulemaking is generically described in the following section. All meetings are open to the public and the materials utilized during such meetings, as well as any documents created to summarize the meeting results, are public information and typically posted on the Council's Web site ([www.mafmc.org](http://www.mafmc.org)) or are available from the Council by request. Extensive background on the 2012

recreational management measures recommendation process is therefore not repeated in this preamble.

The FMP established monitoring committees for the three fisheries, consisting of representatives from the Commission, the Council, state marine fishery agency representatives from MA to NC, and NMFS. The FMP's implementing regulations require the monitoring committees to review scientific and other relevant information annually and to recommend management measures necessary to constrain landings within the recreational harvest limits established for the summer flounder, scup, and black sea bass fisheries for the upcoming fishing year. The FMP limits the choices for the types of 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 monitoring committees' recommendations and any public comment in making their recommendations to the Council and the Commission, respectively. The Council 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 and all applicable laws and Executive Orders before ultimately implementing measures for Federal waters.

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.

**Proposed 2012 Recreational Management Measures**

NMFS is proposing 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 the 2012 recreational summer flounder, scup, and black sea bass fisheries: For summer flounder, use of state-by-state conservation equivalency measures, which are the status quo measures; for scup, a 10.5-inch (26.67-cm) minimum fish size, a

20-fish per person possession limit, and an open season of January 1 through December 31; and, for black sea bass, a 12.5-inch (31.71-cm) minimum fish size, a 15-fish per person possession limit for a January 1 through February 29 open season, and a 25-fish per person possession limit for open seasons of May 19 through October 14 and November 1 through December 31. NMFS will consider retaining or reinstating status quo black sea bass measures, as needed, for Federal waters (i.e., a 12.5-in (31.75-cm) minimum fish size, a 25-fish per person possession limit, and fishing seasons from May 22–October 11 and November 1–December 31) if the Commission develops and implements a state-waters conservation equivalency system that, when paired with the Council's recommended measures, does not provide the necessary conservation to ensure the 2012 recreational harvest limit will not be exceeded. More detail on these proposed measures is provided in the following sections.

**Summer Flounder Recreational Management Measures**

The 2012 recreational harvest limit for summer flounder is 8.76 million lb (3,973 mt), as published in interim final rule (76 FR 82189, December 30, 2011). Final landings for 2011 are approximately 5.6 million lb (2,541.57 mt), well below the recreational harvest limit. The Council and Commission have recommended the use of conservation equivalency to manage the 2012 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 (possession limits, minimum fish size, and fishing seasons) to achieve its state harvest limit partitioned by the Commission from the coastwide recreational harvest limit, as long as the combined effect of all of the states' management measures achieves the same level of conservation as would Federal coastwide measures.

The Council and Board annually recommend that either state- or region-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 for use in Federal waters.

When conservation equivalency is recommended, and following confirmation that the proposed state measures developed through the Commission's technical and policy review processes achieve conservation equivalency, NMFS may waive the permit condition found at § 648.4(b), which requires Federal permit holders to comply with the more restrictive management measures when state and Federal measures differ. In such a situation, federally permitted summer flounder charter/party permit holders and individuals fishing for summer flounder in the EEZ would then 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 when recommending conservation equivalency. 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 Commission's Summer Flounder Technical Committee, or that submits measures that would exceed the Commission-specified harvest limit for that state.

Much of the conservation equivalency measures development process happens at both the Commission and individual state level. The selection of appropriate data and analytic techniques for technical review of potential state conservation equivalent measures and the process by which the Commission evaluates and recommends proposed conservation equivalent measures is wholly a function of the Commission and its individual member states. Individuals seeking information regarding the process to develop specific state measure or the Commission process for technical evaluation of proposed measures should contact the marine fisheries agency in the state of interest, the Commission, or both.

Once states select their final 2012 summer flounder management measures through their respective development, analytical, and review processes and submit them to the Commission, the Commission will conduct further review and evaluation of the state-submitted proposals, ultimately notifying NMFS as to which individual state proposals have been approved or disapproved. NMFS has no overarching authority in the state or Commission management measure development, but is an equal

participant along with all the member states in the measures review process. NMFS retains the final authority either to approve or to disapprove the use of conservation equivalency in place of the coastwide measures in Federal waters, and will publish its determination as a final rule in the **Federal Register** to establish the 2012 recreational measures for these fisheries.

States that do not submit conservation equivalency proposals, or whose proposals are disapproved by the Commission, will 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 2012 precautionary default measures recommended by the Council and Board are for a 20.0-inch (50.80-cm) minimum fish size, a possession limit of two fish, and an open season of May 1 through September 30, 2012.

In this action, NMFS proposes to implement conservation equivalency with a precautionary default backstop, as previously outlined, for states that either fail to submit conservation equivalent measures or whose measures are not approved by the Commission. NMFS proposes the alternative of coastwide measures, as previously described, for use if conservation equivalency is not approved in the final rule. The coastwide measures would be waived if conservation equivalency is approved in the final rule.

#### **Scup Recreational Management Measures**

The 2012 scup recreational harvest limit is 8.45 million lb (3,833 mt), as published in interim final rule (December 30, 2011; 76 FR 82189). Estimated 2011 scup recreational landings are 3.48 million lb (1,580.39 mt). The Council and Commission's recommended measures for the 2012 scup recreational fishery are for a 10.5-in (26.67-cm) minimum fish size, a 20-fish per person possession limit, and an open season of January 1 through December 31. NMFS proposes to implement the recommended scup recreational management measures for 2012 in Federal waters.

NMFS acknowledges that the Commission has indicated its intent to continue managing the recreational scup fishery through a Commission-based conservation equivalency program that has no comparable measures in the Federal FMP. Thus, recreational

management measures will differ between state and Federal waters in 2012. Historically, very little of the scup recreational harvest comes from the Federal waters of the EEZ. The scup recreational harvest from Federal waters for 2010 was approximately 4 percent of the total coastwide landings.

#### **Black Sea Bass Recreational Management Measures**

The 2012 black sea bass recreational harvest limit is 1.32 million lb (599 mt), as published in interim final rule (December 30, 2011; 76 FR 82189). The 2011 black sea bass recreational landings were 1.09 million lb (494 mt); however, at the time the Council and Commission were making recommendations for the 2012 recreational black sea bass fishery, the 2011 landings were estimated to be 0.99 million lb (449 mt).

The Council has recommended measures designed to allow for an increase in black sea bass recreational landings (from the estimated 0.99 million lb to the allowable 1.32 million lb). These measures for Federal waters are a 12.5-inch (31.75-cm) minimum fish size and a 15-fish per person possession limit for an open season of January 1 through February 28; and a 12.5-inch (31.75-cm) minimum fish size and a 25-fish per person possession limit for open seasons of May 19 through October 14 and November 1 through December 31.

The Commission is developing conservation equivalency measures for state waters based on the original 2011 landings, which would have allowed for an increase in landings and more flexibility. NMFS is proposing to implement the aforementioned Council-recommended measures for Federal waters while the Commission's process for determining state waters conservation equivalency proceeds. However, it may be necessary to maintain the status quo measures (12.5-inch (31.75-cm) minimum fish size, 25-fish per person possession limit, and an open season of May 22 through October 11 and November 1 through December 31), if the proposed Council recommended measures and the Commission's state waters conservation equivalency measures are likely to result in the recreational harvest limit being exceeded.

If the timing of this Commission process is complete, including the necessary correspondence to NMFS and the Council, before a final rule has been issued by NMFS for the 2011 recreational management measures, NMFS may implement the Council's recommended measures for Federal

waters. The decision to implement the Council's recommended measures for Federal waters will be contingent on the as of yet to be completed analyses and recommendation from the Commission, and any such decision would be relayed in the final rule published in the **Federal Register**. If the Commission conservation equivalency development process extends beyond the issuance of a recreational management measures final rule, NMFS may issue a second rule to implement the Council's recommended 2012 measures for Federal waters, pending the completion of the Commission process and concurrence by NMFS that the combination of state waters conservation equivalency and the Council's recommended measures will achieve the desired 2012 fishery performance. Should NMFS ultimately determine that the Commission's conservation equivalency measures for use in state waters for the 2012 fishery and the Council's recommended measures would likely result in the recreational harvest limit being exceeded, then Federal status quo measures would remain for the duration of the 2012 fishing year: A 12.5-inch (31.75-cm) minimum fish size, 25-fish possession limit, and May 22 through October 14 and November 1 through December 31 open seasons.

The proposed January 1 through February 29 open season has already passed, but would roll-over into fishing year 2013, if approved in the final rule. However, because the fishing year 2013 recreational harvest limit is unknown, it is not possible to determine the impact that this additional fishing opportunity would have on keeping the fishery within the 2013 recreational harvest limit. As such, if this additional season is approved and implemented in the final rule for the 2012 recreational harvest measures, NMFS may re-evaluate the open season during the 2013 specifications process.

### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. In order to ensure that any final rule can be published as soon as possible, NMFS is requesting that comments for this proposed rule be submitted within 15 days. This will allow interested parties adequate opportunity to comment while ensuring that NMFS can publish a final

rule in a timely manner in an attempt to avoid a delay in the opening of the fishing season, should the proposed black sea bass fishing season be approved.

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

The Council prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA), which is included in the Supplemental EA and supplemented by information contained in the preamble to this proposed rule. The IRFA 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 at the beginning of this section of the preamble and in the **SUMMARY** of this proposed rule. A summary of the IRFA follows. A copy of this analysis is available from the Council (see **ADDRESSES**).

All of the entities (charter/party permitted fishing vessels) affected by this action are considered small entities under the Small Business Administration size standards for businesses in the recreational fishery with gross revenues of up to \$7.0 million. Therefore, there are no disproportionate effects on small versus large entities. Information on costs in the fishery is not readily available and individual vessel profitability cannot be determined directly; therefore, expected changes in gross revenues were used as a proxy for profitability.

This action does not introduce any new reporting, recordkeeping, or other compliance requirements. This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

### *Description and Estimate of Number of Small Entities to Which the Rule Would Apply*

The proposed 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 IRFA focuses upon 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 proposed measures could affect any of the 902 vessels possessing a Federal charter/party permit for summer flounder, scup, and/or black sea bass in 2010, the most recent year for which complete permit data are available. However, only 355 vessels reported active participation in the 2010 recreational summer flounder, scup, and/or black sea bass fisheries.

### *Economic Impacts of the Proposed Action Compared to Significant Non-Selected Alternatives*

In the IRFA, the no-action alternative (i.e., maintenance of the regulations as codified) is: (1) For summer flounder, coastwide measures of a 18-inch (45.72-cm) minimum fish size, a 2-fish possession limit, and an open season from May 1 through September 30; (2) for scup, a 10.5-inch (26.67-cm) minimum fish size, a 10-fish possession limit, and an open season of June 6 through September 26; and (3) for black sea bass, a 12.5-inch (31.75-cm) minimum size, a 25-fish possession limit, and open seasons of May 22 through October 11 and November 1 through December 31. The status quo alternative is: (1) For summer flounder, conservation equivalency, with precautionary default measures of a 20-inch (50.8-cm) minimum fish size, a 2-fish possession limit, and an open season of May 1 through September 30; (2) for scup and black sea bass, the same as the no action alternative. The proposed alternative is: (1) For summer flounder, the same as the status quo alternative; (2) for scup, a 10.5-inch (26.67-cm) minimum fish size, a 10-fish possession limit, and an open season of January 1 through December 31; and (3) for black sea bass, a 12.5-inch (31.75-cm) minimum fish size and a 15-fish possession limit for an open season of January 1 through February 28, and a 12.5-inch (31.75-cm) minimum fish size and a 25-fish possession limit for open seasons of May 19 through October 14 and November 1 through December 31.

The impacts of the alternatives on small entities (i.e., federally permitted party/charter vessels in each state in the Northeast region) were analyzed, assessing potential changes in gross revenues for all 18 combinations of

alternatives proposed. Although NMFS's RFA guidance recommends assessing changes in profitability as a result of proposed measures, the quantitative impacts were instead evaluated using expected changes in party/charter vessel revenues as a proxy for profitability. This is because reliable cost and revenue information is not available for charter/party vessels at this time. Without reliable cost and revenue 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. Effects of the various management measures were analyzed by employing quantitative approaches, to the extent possible. Where quantitative data were not available, qualitative analyses were utilized.

Because the proposed action is less restrictive than the other alternatives considered and provides the most opportunity for recreational fishing, the affected regulated entities are expected to be able to maximize fishery-related revenue under the preferred alternative relative to the non-preferred alternatives. The preferred alternative for scup would open the fishing season from June 6–September 26 to all year, and the preferred alternative for black sea bass would increase the summer season from May 22–October 11 to May 19–October 14, plus provide for a two month season in January–February 2013. For summer flounder, the preferred alternative for conservation equivalency is expected to increase fishing opportunities because, under the Commission's plan, all states but one (Delaware) are authorized to increase landings in 2012. The Council and NMFS did not consider any alternatives that would provide additional fishing opportunities because any such alternative would increase the risk of the fishery exceeding the recreational harvest limit, which could result in overfishing the stock and/or exceeding the annual catch limit. This would be contrary to the goals and objectives of the Magnuson-Stevens Act.

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 25, 2012.

**Alan D. Risenhoover,**

*Acting Deputy Director for Regulatory Programs, 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 § 648.107, paragraph (a) introductory text and paragraph (b) are revised to read as follows:

##### **§ 648.107 Conservation equivalent measures for the summer flounder party/charter and recreational fishery.**

(a) The Regional Administrator has determined that the recreational fishing measures proposed to be implemented by Massachusetts through North Carolina for 2012 are the conservation equivalent of the season, minimum fish size, and possession limit prescribed in §§ 648.105, 648.104(b), and 648.106(a), respectively. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

\* \* \* \* \*

(b) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels subject to the recreational fishing measures of this part and registered in states 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 §§ 648.105, 648.104(b) and 648.106(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—20.0 inches (50.80 cm); and possession limit—two fish.

3. Section 648.127 is revised to read as follows:

##### **§ 648.127 Scup recreational fishing season.**

Fishermen and vessels that are not eligible for a moratorium permit under § 648.4(a)(6), may possess scup year-round, subject to the possession limit specified in § 648.128(a). The recreational fishing season may be adjusted pursuant to the procedures in § 648.122.

4. In § 648.128, paragraph (a) is revised to read as follows:

##### **§ 648.128 Scup possession restrictions.**

(a) *Party/Charter and recreational possession limits.* No person shall possess more than 20 scup in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a scup moratorium permit, or is issued a scup dealer permit. 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 § 648.122.

\* \* \* \* \*

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

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

(a) From January 1 through February 29, 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. From May 19 through October 14, and from November 1 through December 31, 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 may not retain more than 15 black sea bass from January 1 through February 29, or more than 25 black sea bass from May 19 through October 14 and from November 1 through December 31. 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.

\* \* \* \* \*

6. 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  
possess black sea bass from January 1

through February 28, May 19 through  
October 14, and November 1 through  
December 31, unless this time period is

adjusted pursuant to the procedures in  
§ 648.142.

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