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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130403319-3545-02]

RIN 0648-BD13

Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2013

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

ACTION: Final rule.

SUMMARY: NMFS is implementing management measures for the 2013 summer flounder, scup, and black sea bass recreational fisheries. This rule also implements an increase in the 2013 and 2014 black sea bass specifications, consistent with a new acceptable biological catch recommendation. 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 [insert date of filing for public inspection at the Office of the Federal Register].

ADDRESSES: Copies of the Supplemental Environmental Assessment (SEA) for the 2013 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 (Commission) and the Mid-Atlantic Fishery Management Council (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 2013 Federal recreational measures for the summer flounder, scup, and black sea bass recreational fisheries was published on April 29, 2013 (78 FR 25052). Additional background and information is provided in the preamble to the proposed rule and is not repeated here.

2013 and 2014 Black Sea Bass Specifications and 2013 Recreational Management Measures

In this rule, NMFS is implementing management measures for the 2013 summer flounder, scup, and black sea bass recreational fisheries. This rule also implements an increase in the 2013 and 2014 black sea bass specifications, consistent with a new acceptable biological catch (ABC) recommendation. 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 tendrils. All possession limits discussed below are per person.

Black Sea Bass Specifications

The process for establishing specifications was summarized in the proposed rule and is not repeated here. At its December 2012 meeting, the Council requested that the Scientific and Statistical Committee (SSC) revisit the 2013 black sea bass specifications and make a recommendation for the 2014 fishing year. On January 23, 2013, the SSC met to reconsider these specifications and recommended an increase in the specifications for both the 2013 and 2014 fishing years. The SSC revised its recommendation for the 2013 and 2014 black sea bass ABC to 5.5 million lb (2,495 mt). The Council voted at its February 2013 meeting to recommend that the new ABC be implemented in conjunction with the recreational management measures. The following table provides the initial specifications for black sea bass for 2013 that were established in the specifications final rule (December 31, 2012; 77 FR 76942) and the revised specifications for 2013 and 2014 that are implemented in this rule.

Table 1: Black Sea Bass Specifications

	Original 2013 Specifications	New Specifications for 2013 and 2014 (million lb)
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	million lb	mt	million lb	mt
ABC	4.50	2,041	5.50	2,495
Commercial ACL & ACT	2.13	966	2.60	1,179
Commercial Quota	1.78	805	2.17	986
Recreational ACL & ACT	2.37	1,075	2.90	1,315
Recreational Harvest Limit	1.85	838	2.26	1,026

As a result of this increase in the black sea bass catch limits, there is a corresponding increase of 25,000 lb (11.3 mt) of black sea bass in the available Research Set-Aside (RSA). Of the total 140,000 lb (65.5 mt) of black sea bass RSA now available, 129,420 lb (58.7 mt) have been awarded. The resulting difference of 10,580 lb (4.8 mt) is redistributed to the recreational harvest limit and the commercial quota, proportionally based on the sector allocations specified in the FMP (i.e., 49 percent to the commercial sector and 51 percent to the recreational sector.) Therefore, this rule implements a recreational harvest limit of 2,262,929 lb (1,026 mt) and a commercial quota of 2,174,312 lb (986 mt).

2013 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 10-inch (25.4-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 20-fish per person possession limit for open seasons of May 19 through October 14 and November 1 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 2013 scup and black sea bass recreational fisheries.

Summer Flounder Recreational Management Measures

This final rule implements the use of conservation equivalency to manage the 2013 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. This means that minimum fish sizes, possession limits, and fishing seasons developed and adopted by the individual states from Massachusetts to North Carolina will replace the Federal waters measures for 2013.

The Commission notified the NMFS Northeast Regional Administrator by letter dated May 14, 2013, that the 2013 summer flounder recreational fishery management programs (i.e., minimum fish size, possession limit, and fishing seasons) implemented by the states from Massachusetts to North Carolina have been reviewed by the Commission's Technical Committee and approved by the Commission's Summer Flounder Management Board (SF Board). The correspondence indicates that the Commission-approved management programs are projected to restrict 2013 recreational summer flounder coastwide landings consistent with the state-specific requirements established by the Technical Committee and SF Board through the Commission

process.

Based on the recommendation of the Commission, the NMFS Northeast Regional Administrator finds that the recreational summer flounder fishing measures proposed to be implemented by the individual states for 2013 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 2013. For clarity, the 2013 summer flounder management measures adopted by the individual states vary according to the state of landing, as specified in Table 1.

TABLE 2 - 2013 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	17.5	44.5	5 fish	May 15-October 31
New York	19	48.3	4 fish	May 1-September 29
New Jersey	17.5	44.5	5 fish	May 18-September 16
Delaware	17	43.2	4 fish	All Year
Maryland	16	40.6	4 fish	March 28-December 31
PRFC	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 CT, anglers may keep 5 fish at 16.0 inches (40.6 cm), May 15-October 31.

Scup Recreational Management Measures

This final rule implements the Council and Commission's recommended scup recreational management measures for 2013 in Federal waters. The 2013 scup recreational harvest limit is 7.55 million lb (3,425 mt), as published in final rule (December 31, 2012; 77 FR 76942). Estimated 2012 scup recreational landings are 4.06 million lb (1,842 mt), well below the 2013 recreational harvest limit; therefore, no reduction in landings is needed. The measures for the 2013 scup recreational fishery are for a 10-inch (25.4-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 the Council's recommended recreational management measures to reduce landings for black sea bass. The 2013 black sea bass recreational harvest limit is 2.26 million lb (1,026 mt). The 2012 recreational harvest limit was 1.32 million lb (599 mt), and the projected 2012 recreational landings were 2.99 million lb (1,356 mt). The projected 2012 landings are above the 2012 recreational harvest limit and both the previously established and the new recreational harvest limit for 2013. The Council and the Commission, therefore, needed to establish management measures to reduce landings in 2013 to a level below the 2013 recreational harvest limit. The majority of the recreational black sea bass fishery occurs in state waters. As such, the Commission agreed to make more significant changes to the state-waters measures to ensure the 2013 recreational harvest limit is not exceeded. Specifically, at the December 2012 meeting, the available data indicated that the Commission needed to reduce landings by 32 percent. However, data corrections and updates to the average weight per fish have resulted in the Commission needing to reduce landings by 24 percent as compared to 2012. In a letter dated May 16, 2013, the Commission has indicated that there was a reasonable

likelihood that the state measures, including the proposed measures for Connecticut, would constrain recreational landings to the recreational harvest limit.

In light of the Commission's changes to the state-water measures, this final rule implements a 12.5-inch (31.8-cm) minimum fish size and 20-fish possession limit for open seasons of May 19-October 14 and November 1-December 31.

Comments and Responses

NMFS received one comment regarding the proposed recreational management measures and increase to the black sea bass specifications. The commenter stated that there was no factual reason for an increase in the catch limits and that the catch limits for all three species should be reduced by 25 percent to prevent extinction. NMFS disagrees with these statements. The catch limits that were established for summer flounder and scup in the specifications final rule (December 31, 2012; 77 FR 76942) and the increase to the black sea bass specifications established in this rule are based on the best available scientific information and on recommendations of the Council's SSC. None of these species is overfished or experiencing overfishing, and, therefore, not in danger of extinction.

Classification

The Regional Administrator, Northeast Region, NMFS, determined that this final rule implementing the 2013 summer flounder, scup, and black sea bass recreational management measures and 2013 and 2014 black sea bass specifications 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, has determined that there is good cause to waive the requirement for a 30-day delay in effectiveness provision of the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d)(3). NMFS has determined that a delay in this rule's effectiveness would be contrary to the public interest because it would undermine the intent of the rule, which is to promote the optimal utilization and conservation of the summer flounder, scup, and black sea bass resources. This action increases the trip limit for the recreational scup fishery in Federal waters and allows federally permitted charter/party vessels to be subject to the new, liberalized summer flounder measures in their respective states, without resulting in overfishing. 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 (45.7-cm) 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. In addition, this rule increases the possession limit for scup, expanding fishing opportunities for fishermen that would otherwise be constrained under the current measures, without resulting in overfishing. If the effectiveness of 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.

For these reasons, the 30-day delay is waived and this rule will become effective on the date of filing in the Federal Register.

Final Regulatory Flexibility Analysis

This final rule includes is 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's 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 2013 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

One comment was received on the proposed rule; however, it did not address the IRFA or economic analysis and did not result in any changes to the rule.

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

The recreational management measures could affect any of the 852 vessels possessing a

Federal charter/party permit for summer flounder, scup, and/or black sea bass in 2012. However, only 355 vessels reported active participation in the 2012 recreational summer flounder, scup, and/or black sea bass fisheries, based on Vessel Trip Reports where the amount of kept summer flounder, scup, or black sea bass is greater than zero on a reported charter/party trip. The Small Business Administration (SBA) considers commercial fishing entities (NAICS code 114111) to be small entities if they have no more than \$4 million in annual sales, while the size standard for charter/party operators (part of NAICS code 487210) is \$7 million in sales. Because any vessel at any time may be issued an open access charter/party summer flounder, scup, and/or black sea bass permit, it is difficult to determine how many vessels or owners will participate in this fishery in a given year. Although some firms own more than one vessel, available data make it difficult to reliably identify ownership control over more than one vessel. Thus, all of the entities (fishing vessels) affected by this action are considered small entities under the SBA size standards for charter/party fishing businesses (\$7.0 million in annual gross sales). Therefore, there are no disproportionate effects on 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 state-by-state conservation equivalency (see Table 2 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 2013 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 state-by-state conservation equivalency, with a precautionary default backstop. The recommendations of both groups were not unanimous: Some Council and Commission members objected to the use of conservation equivalency, stating a preference for coastwide measures.

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 2013 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 2013 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 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 state-by-state conservation equivalency measures because: (1) NMFS finds no compelling reason to disapprove the Council and Commission's recommended 2013 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 2013 fishing year: A 10-inch (25.4-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 10.5-inch (26.7-cm) minimum fish size, 20-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 implements the Council's preferred measures (Alternative 2 in the Council's SEA/RIR/IRFA): A 12.5-inch (31.8-cm) minimum fish size and a 22-fish possession limit for the May 19-October 14 and November 1-December 31 fishing seasons. This alternative provides 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 2013 fishery. Alternative 1 (a 12.5-inch (31.8-cm) minimum fish size, a 25-fish per person possession limit, and open season of May 19 through October 14 and November 1 through December 31; and a 12.5-inch (31.8-cm) minimum fish size, a 15-fish per person possession limit, and an open season of January 1-February 28), does not satisfy the management objectives of the FMP, as a reduction in landings as compared to 2012 is necessary, and thus this alternative was not implemented.

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 website: <http://www.nero.noaa.gov>.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 17, 2013

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries,

performing the functions and duties of the

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 648.104, paragraph (b) is revised to read as follows:

§ 648.104 Summer flounder minimum fish sizes.

* * * * *

(b) Party/charter permitted vessels and recreational fishery participants. Unless otherwise specified pursuant to § 648.107, the minimum size for summer flounder is 18 inches (45.7 cm) TL for all vessels that do not qualify for a moratorium permit under § 648.4(a)(3), and charter boats holding a moratorium permit if fishing with more than three crew members, or party boats holding a moratorium permit if fishing with passengers for hire or carrying more than five crew members.

* * * * *

3. In § 648.106, paragraph (a) is revised to read as follows:

§ 648.106 Summer flounder possession restrictions.

(a) Party/charter and recreational possession limits. Unless otherwise specified pursuant to § 648.107, no person shall possess more than four 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 § 648.102.

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4. 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 Massachusetts through North Carolina for 2013 are the conservation equivalent of the season, minimum fish size, and possession limit prescribed in §§ 648.104(b), 648.105, 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 §§ 648.104(b), 648.105, 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 (50.8 cm); and possession limit - two fish.

5. 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 10 inches (25.4 cm) TL for all vessels that do not have a moratorium permit, or for party and charter vessels that are issued a moratorium permit but are fishing with passengers for hire, or carrying more than three crew members if a charter boat, or more than five crew members if a party boat.

* * * * *

6. 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.

7. 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 30 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.

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8. 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 20 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 20 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.

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9. 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 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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