



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 191120-0085]**

**RIN 0648-BI93**

**Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Framework Adjustment 14**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS is implementing changes to aspects of the commercial and recreational summer flounder, scup, and black sea bass management program, as recommended by the Mid-Atlantic Fishery Management Council. This action incorporates new management measures for the commercial and recreational fisheries for these species. The intent of this action is to allow for more management flexibility.

**DATES:** Effective [*insert date 30 days after date of publication in the Federal Register*].

**ADDRESSES:** Copies of this framework adjustment, including the Environmental Assessment (EA) are available on request 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.mafmc.org/s/SFSBSB\\_Framework14\\_EA.pdf](http://www.mafmc.org/s/SFSBSB_Framework14_EA.pdf).

**FOR FURTHER INFORMATION CONTACT:** Emily Gilbert, Fishery Policy Analyst, (978) 281-9244.

## **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 and the Atlantic States Marine Fisheries 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 northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35° 13.3' N. lat. (the approximate latitude of Cape Hatteras, North Carolina). States manage these three species within 3 nautical miles (4.83 km) of their coasts, under the Commission's management plan for summer flounder, scup, and black sea bass. The applicable species-specific Federal regulations govern vessels and individual fishermen commercially and recreationally fishing in Federal waters of the exclusive economic zone, as well as vessels possessing a summer flounder, scup, or black sea bass Federal charter/party vessel permit, regardless of where they fish. This rule implements management measures intended to provide more flexibility in the commercial and recreational fisheries for these species and includes the following changes to the FMP:

- Include conservation equivalency as an annual management option for the black sea bass recreational fishery;

- Create a Federal waters transit zone for non-federally permitted vessels fishing in state waters around Block Island Sound; and
- Incorporate a maximum recreational size limit in the list of potential specification measures for summer flounder and black sea bass to enable consideration of slot limits as a management tool.

These measures, which are further explained below, are consistent with the recommendations of the Council and the Commission's Summer Flounder, Scup, and Black Sea Bass Management Board for this action.

### **Final Management Measures**

#### *Black Sea Bass Conservation Equivalency*

Framework Adjustment 14 to the Summer Flounder, Scup, and Black Sea Bass FMP establishes a process for conservation equivalency for future use in the recreational black sea bass fishery based on the process used for summer flounder. Under conservation equivalency, the Council and Board will decide each year whether to use Federal coastwide measures or state-by-state or regional conservation equivalency to manage the recreational black sea bass fishery. Conservation equivalency waives Federal measures so long as the states implement appropriate measures. If states agree to use conservation equivalency, they must also develop a set of non-preferred coastwide measures (minimum fish size limit, possession limit, and season) that would be expected to prevent harvest from exceeding the annual recreational harvest limit. The Council and Board must also recommend a suite of precautionary default measures that would apply to all recreational anglers and Federal party/charter permit holders fishing in Federal waters and landing black sea bass in states that do not develop and implement

Commission-approved conservationally equivalent measures.

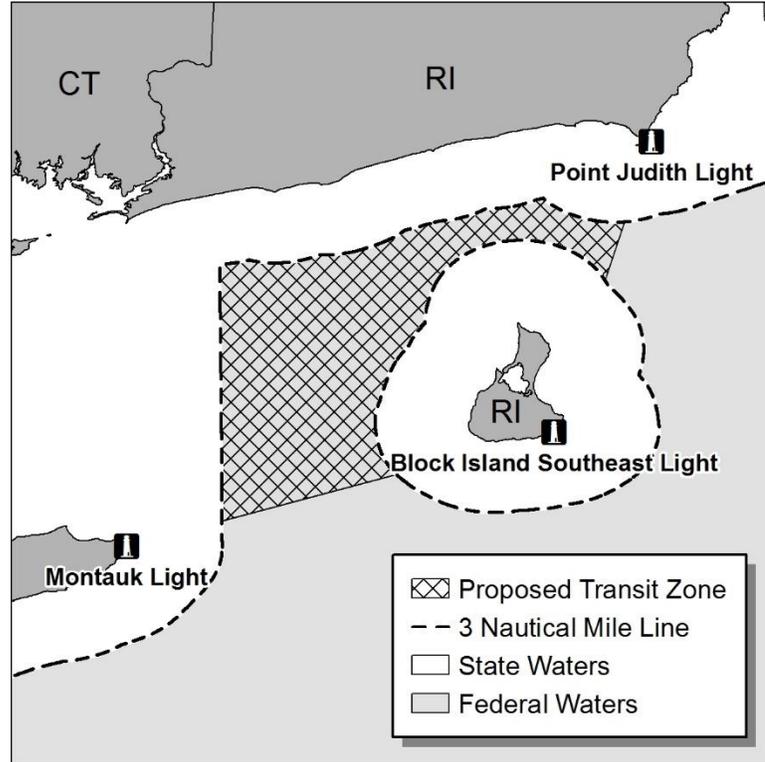
If the Council and Board agree to use conservation equivalency in a given year, the Board will determine the management program to implement conservation equivalency for black sea bass in that year through a separate action. After reviewing and approving the state/regional proposals, the Commission must submit a letter to us certifying that the combination of state and regional measures is expected to prevent harvest from exceeding that year's recreational harvest limit. Based on the Commission's certification, we would be able to approve conservation equivalency and waive Federal measures for the remainder of the calendar year in favor of the state or regional conservation equivalency measures. Federally permitted party/charter vessels and private recreational vessels fishing in Federal waters would then be subject to the regulations in the states where they land their catch. If the Commission submits a letter to us announcing that a state or states have not implemented appropriate measures, the state or states would be required to implement precautionary default measures in state waters through the Commission. We would also apply those precautionary default measures to Federal party/charter permit holders and recreational vessels fishing in Federal waters that are landing black sea bass in applicable states. If a state or region implements measures that are not approved, the Commission would require the precautionary default measures to be enforced in that state or region and would request that we apply those measures to federally permitted vessels landings in those states as well. Non-preferred coastwide measures would be implemented: 1) if we do not approve conservation equivalency; or 2) at the start of the next fishing year (*i.e.*, when conservation equivalency for a given year has expired).

### *Block Island Sound Transit Zone*

This action creates a transit area for state-only permitted vessels fishing for summer flounder, scup, and black sea bass around Block Island to address issues when Federal and state management measures differ. The transit zone mirrors the current transit area for striped bass and allows transit through Federal waters for state-only permitted commercial and party/charter vessels and private recreational anglers with summer flounder, scup, and/or black sea bass on board that were legally harvested in state waters (Figure 1). These vessels may transit between the Rhode Island state waters surrounding Block Island and the coastal state waters of Rhode Island, New York, Connecticut, or Massachusetts while complying with the state waters measures for those species. Transit through the defined area is allowed, provided that fishermen are compliant with all applicable state regulations, including harvest limits; gear is stowed in accordance with Federal regulations; no fishing takes place from the vessel while in Federal waters; and the vessel is in continuous transit.

This transit provision does not apply to federally permitted summer flounder, scup, or black sea bass vessels. There are no changes to current Federal regulations requiring all federally permitted vessels to abide by the measures of the state(s) in which they harvest or land their catch, or the Federal waters measures, whichever are more restrictive.

**Figure 1 -- Block Island Sound Transit Area**



*Inclusion of Maximum Size Limit*

This action specifies that a maximum size limit can be set through specifications for summer flounder and black sea bass recreational fisheries. By including a maximum size, the Council can recommend both a minimum and maximum recreational size limit to allow for consideration of regular slot limits, split slot limits, and/or trophy fish when setting recreational measures each year. This action does not change any current Federal recreational measures, but adds flexibility in specifying future recreational management measures.

**Comments and Responses**

The public comment period for the proposed rule ended on September 9, 2019, and a total of three relevant comments were received from the public. Two commenters stated that conservation equivalency should not be used in the black sea bass recreational

fishery, or should only be used when Marine Recreational Information Program information is reliable. The other commenter noted that maximum size limits should not be used. In response to those three comments, this action is only allowing for consideration of conservation equivalency in the black sea bass recreational fishery and providing the ability to set a maximum size limit. The Council and Commission will make annual determinations on whether or not to utilize either of these management tools.

### **Changes from the Proposed Rule**

There are no substantive changes from the proposed rule. Minor clarifications were made to the regulations to clarify references to moratorium permits included in the Block Island Sound transit provisions are specific to summer flounder, scup, and black sea bass.

### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this final rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

This final rule is considered an Executive Order 13771 deregulatory action.

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, and the initial certification remains unchanged. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

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

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 21, 2019.

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Samuel D. Rauch III,  
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 § 648.14, revise paragraphs (n)(1)(i), (o)(1) introductory text, (p)(1) introductory text, (p)(1)(i) and (v), and (p)(2) introductory text to read as follows:

**§ 648.14 Prohibitions.**

\* \* \* \* \*

(n) \* \* \*

(1) \* \* \*

(i) *Permit requirement.* Possess summer flounder in or harvested from the EEZ, either in excess of the possession limit specified in § 648.106, or before or after the time period specified in § 648.105, unless the vessel was issued a summer flounder moratorium permit and the moratorium permit is on board the vessel and has not been surrendered, revoked, or suspended. However, possession of summer flounder harvested from state waters is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.111.

\* \* \* \* \*

(o) \* \* \*

(1) *All persons.* Unless a vessel is participating in a research activity as described in § 648.122(e) or unless a vessel has no Federal scup permit, possesses scup caught exclusively in state waters, and is transiting Federal waters within the Block Island Sound Transit Area in accordance with the provisions at § 648.131, it is unlawful for any person to do any of the following:

\* \* \* \* \*

(p) \* \* \*

(1) *All persons.* Unless participating in a research activity as described in § 648.142(e), it is unlawful for any person to do any of the following:

(i) *Permit requirement.* Possess black sea bass in or harvested from the EEZ north of 35°15.3' N. lat., either in excess of the possession limit established pursuant to § 648.145, or before or after the time period established pursuant to § 648.146, unless the person is operating a vessel issued a moratorium permit under § 648.4 and the moratorium permit is on board the vessel. However, possession of black sea bass harvested from state waters is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.151.

\* \* \* \* \*

(v) *Size limits.* Fish for, possess, land, or retain black sea bass in or from the EEZ that does not comply with the minimum or maximum (as applicable) fish size specified in § 648.147.

\* \* \* \* \*

(2) *Vessel and operator permit holders.* Unless participating in a research activity as described in § 648.142(e), it is unlawful for any person owning or operating a vessel issued a black sea bass permit (including a moratorium permit) to do any of the following:

\* \* \* \* \*

3. In § 648.102, revise paragraphs (a)(7) and (d)(2)(ii) through (iv) to read as follows:

**§ 648.102 Summer flounder specifications.**

(a) \* \* \*

(7) Recreational minimum and/or maximum fish size.

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \*

(ii) The ASMFC will review conservation equivalency proposals and determine whether or not they achieve the necessary adjustment to recreational landings. The ASMFC will provide the Regional Administrator with the individual state and/or multi-state region conservation measures for the approved state and/or multi-state region proposals and, in the case of disapproved state and/or multi-state region proposals, the precautionary default measures that should be applied to a state or region. At the request of the ASMFC, precautionary default measures would apply to federally permitted party/charter vessels and other recreational fishing vessels harvesting summer flounder in or from the EEZ when landing in a state that implements measures not approved by the ASMFC.

(iii) After considering public comment, the Regional Administrator will publish a final rule in the **Federal Register** to implement either the state specific conservation equivalency measures or coastwide measures to ensure that the applicable specified target is not exceeded.

(iv) The ASMFC may allow states assigned the precautionary default measures to resubmit revised management measures. The ASMFC will detail the procedures by which the state can develop alternate measures. The ASMFC will notify the Regional Administrator of any resubmitted state proposals approved subsequent to publication of

the final rule and the Regional Administrator will publish a document in the **Federal Register** to notify the public.

\* \* \* \* \*

4. In § 648.104, revise the section heading and paragraphs (b) and (c) to read as follows:

**§ 648.104 Summer flounder size requirements.**

\* \* \* \* \*

(b) *Party/charter permitted vessels and recreational fishery participants.* The minimum size for summer flounder is 19 inches (48.3 cm) total length for all vessels that do not qualify for a summer flounder moratorium permit under § 648.4(a)(3), and charter boats holding a summer flounder moratorium permit if fishing with more than three crew members, or party boats holding a summer flounder moratorium permit if fishing with passengers for hire or carrying more than five crew members, unless otherwise specified in the conservation equivalency regulations at § 648.107. If conservation equivalency is not in effect in any given year, possession of smaller (or larger, if applicable) summer flounder harvested from state waters is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.111 and abide by state regulations.

(c) *Measurement.* The size limits in this section apply to whole fish or to any part of a fish found in possession, *e.g.*, fillets, except that party and charter vessels fishing exclusively in state waters possessing valid state permits authorizing filleting at sea may possess fillets smaller than the size specified if all state requirements are met.

5. Revise § 648.105 to read as follows:

**§ 648.105 Summer flounder recreational fishing season.**

No person may fish for summer flounder in the EEZ from May 15 through September 15 unless that person is the owner or operator of a fishing vessel issued a commercial summer flounder moratorium permit, or is issued a summer flounder dealer permit, or unless otherwise specified in the conservation equivalency measures at § 648.107. Persons aboard a commercial vessel that is not eligible for a summer flounder moratorium permit are subject to this recreational fishing season. This time period may be adjusted pursuant to the procedures in § 648.102. Possession of summer flounder harvested from state waters during this time is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.111 and abide by state regulations.

6. In § 648.106, revise paragraph (a) to read as follows:

**§648.106 Summer flounder possession restrictions.**

(a) *Party/charter and recreational possession limits.* No person shall possess more than four summer flounder in, or harvested from, the EEZ, per trip 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, or unless otherwise specified in the conservation equivalency measures at § 648.107. 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. Possession of summer flounder harvested from state waters above this possession limit is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.111 and abide by state regulations.

\* \* \* \* \*

7. In § 648.107, revise paragraphs (a) introductory text and (b) 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 2019 are the conservation equivalent of the season, size limits, and possession limit prescribed in §§ 648.104(b), 648.105, and 648.106. 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 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, size limits 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—July 1 through August 31; minimum size—20 inches (50.8 cm); and possession

limit—two fish.

8. Add § 648.111 to subpart G to read as follows:

**§ 648.111 Block Island Sound Transit Area.**

(a) Vessels not issued a summer flounder Federal moratorium or party/charter permit, and recreational fishing participants fishing exclusively in state waters may transit with summer flounder harvested from state waters on board through Federal waters of the EEZ within Block Island Sound, north of a line connecting Montauk Light, Montauk Point, NY, and Block Island Southeast Light, Block Island, RI; and west of a line connecting Point Judith Light, Point Judith, RI, and Block Island Southeast Light, Block Island, RI. Within this area, possession of summer flounder is permitted regardless of the minimum or maximum size (as applicable), possession limit, and seasons outlined in §§ 648.104, 648.105, and 648.106, provided no fishing takes place from the vessel while in Federal waters of the EEZ, the vessel complies with state regulations, and is in continuous transit. During such transit through this area, commercial gear must be stowed in accordance with the definition of “not available for immediate use” found at § 648.2, and party/charter vessels and recreational participants must have all bait and hooks removed from fishing rods, and any summer flounder on board must be stored in a cooler or container.

(b) The requirements of this transit zone are not necessary or applicable for recreational fishery participants during years when conservation equivalency has been adopted under § 648.107 conservation equivalency measures and recreational Federal measures are waived.

9. In § 648.126, revise paragraph (b) 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) total length for all vessels that do not have a scup moratorium permit, or for party and charter vessels that are issued a scup 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. However, possession of smaller scup harvested from state waters is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.131 and abide by state regulations.

\* \* \* \* \*

10. Revise § 648.127 to read as follows:

**§ 648.127 Scup recreational fishing season.**

Fishermen and vessels that are not eligible for a scup 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. Should the recreational fishing season be modified, non-federally scup permitted vessels abiding by state regulations may transit with scup harvested from state waters on board through the Block Island Sound Transit Area following the provisions outlined in § 648.131.

11. In § 648.128, revise paragraph (a) to read as follows:

**§ 648.128 Scup possession restrictions.**

(a) *Party/Charter and recreational possession limits.* No person shall possess more than 50 scup in, or harvested from, per trip 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. However, possession of scup harvested from state waters above this possession limit is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.131 and abide by state regulations.

\* \* \* \* \*

12. Add § 648.131 to subpart H to read as follows:

**§ 648.131 Block Island Sound Transit Area.**

Vessels not issued a scup Federal moratorium or party/charter permit, and recreational fishing participants fishing exclusively in state waters may transit with scup harvested from state waters on board through Federal waters of the EEZ within Block Island Sound, north of a line connecting Montauk Light, Montauk Point, NY, and Block Island Southeast Light, Block Island, RI; and west of a line connecting Point Judith Light, Point Judith, RI, and Block Island Southeast Light, Block Island, RI. Within this area, possession of scup is permitted regardless of the minimum size, possession limit, and seasons outlined in §§ 648.126, 648.127, and 648.128, provided no fishing takes

place from the vessel while in Federal waters of the EEZ, the vessel complies with state regulations, and is in continuous transit. During such transit through this area, commercial gear must be stowed in accordance with the definition of “not available for immediate use” found at § 648.2, and party/charter vessels and recreational participants must have all bait and hooks removed from fishing rods, and any scup on board must be stored in a cooler or container.

13. Revise § 648.142 to read as follows:

**§ 648.142 Black sea bass specifications.**

(a) *Commercial quota, recreational landing limit, research set-aside, and other specification measures.* The Black Sea Bass Monitoring Committee will recommend to the Demersal Species Committee of the MAFMC and the ASMFC, through the specification process, for use in conjunction with the ACL and ACT, sector-specific research set-asides, estimates of the sector-related discards, a recreational harvest limit, a commercial quota, along with other measures, as needed, that are projected to ensure the sector-specific ACL for an upcoming year or years will not be exceeded. The following measures are to be considered by the Black Sea Bass Monitoring Committee:

(1) Research quota set from a range of 0 to 3 percent of the maximum allowed.

(2) A commercial quota, allocated annually.

(3) A commercial possession limit for all moratorium vessels, with the provision that these quantities be the maximum allowed to be landed within a 24-hour period (calendar day).

(4) Commercial minimum fish size.

(5) Minimum mesh size in the codend or throughout the net and the catch threshold that will require compliance with the minimum mesh requirement.

(6) Escape vent size.

(7) A recreational possession limit set after the reduction for research quota.

(8) Recreational minimum and/or maximum fish size.

(9) Recreational season.

(10) Recreational state conservation equivalent and precautionary default measures utilizing possession limits, minimum fish sizes, and/or seasons set after reductions for research quota.

(11) Restrictions on gear other than otter trawls and pots or traps.

(12) Total allowable landings on an annual basis for a period not to exceed 3 years.

(13) Changes, as appropriate, to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs.

(14) Modification of the existing AM measures and ACT control rules utilized by the Black Sea Bass Monitoring Committee.

(b) *Specification fishing measures.* The Demersal Species Committee shall review the recommendations of the Black Sea Bass Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall make its recommendations to the MAFMC with respect to the measures necessary to assure that the sector-specific ACLs for an upcoming fishing year or years will not be

exceeded. The MAFMC shall review these recommendations and, based on the recommendations and public comment, make recommendations to the Regional Administrator with respect to the measures necessary to assure that sector ACLs are not exceeded. Included in the recommendation will be supporting documents, as appropriate, concerning the environmental and economic impacts of the final rule. The Regional Administrator will review these recommendations and any recommendations of the ASMFC. After such review, the Regional Administrator will publish a proposed rule in the **Federal Register** to implement a commercial quota, a recreational harvest limit, and additional management measures for the commercial fishery.

(c) *Distribution of annual commercial quota.* The black sea bass commercial quota will be allocated on a coastwide basis.

(d) *Recreational specification measures.* The Demersal Species Committee shall review the recommendations of the Black Sea Bass Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall recommend to the MAFMC and ASMFC measures that are projected to ensure the recreational ACL for an upcoming fishing year or years will not be exceeded. The MAFMC shall review these recommendations and, based on the recommendations and any public comment, recommend to the Regional Administrator measures that are projected to ensure the recreational ACL for an upcoming fishing year or years will not be exceeded. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The MAFMC and the ASMFC will recommend that the Regional Administrator implement either:

(1) *Coastwide measures.* Annual coastwide management measures that constrain the recreational black sea bass fishery to the recreational harvest limit, or

(2) *Conservation equivalent measures.* Individual states, or regions formed voluntarily by adjacent states (*i.e.*, multi-state conservation equivalency regions), may implement different combinations of minimum and/or maximum fish sizes, possession limits, and closed seasons that achieve equivalent conservation as the coastwide measures. Each state or multi-state conservation equivalency region may implement measures by mode or area only if the proportional standard error of recreational landing estimates by mode or area for that state is less than 30 percent.

(i) After review of the recommendations, the Regional Administrator will publish a proposed rule in the **Federal Register** as soon as possible to implement the overall percent adjustment in recreational landings required for the fishing year, and the ASMFC's recommendation concerning conservation equivalency, the precautionary default measures, and coastwide measures.

(ii) The ASMFC will review conservation equivalency proposals and determine whether or not they achieve the necessary adjustment to recreational landings. The ASMFC will provide the Regional Administrator with the individual state and/or multi-state region conservation measures for the approved state and/or multi-state region proposals and, in the case of disapproved state and/or multi-state region proposals, the precautionary default measures that should be applied to a state or region. At the request of the ASMFC, precautionary default measures would apply to federally permitted party/charter vessels and other recreational fishing vessels harvesting summer flounder in

or from the EEZ when landing in a state that implements measures not approved by the ASMFC.

(iii) After considering public comment, the Regional Administrator will publish a final rule in the **Federal Register** to implement either the state specific conservation equivalency measures or coastwide measures to ensure that the applicable specified target is not exceeded.

(iv) The ASMFC may allow states assigned the precautionary default measures to resubmit revised management measures. The ASMFC will detail the procedures by which the state can develop alternate measures. The ASMFC will notify the Regional Administrator of any resubmitted state proposals approved subsequent to publication of the final rule and the Regional Administrator will publish a document in the **Federal Register** to notify the public.

(e) *Research quota.* See § 648.22(g).

14. In § 648.144, revise paragraph (a)(1)(ii) to read as follows:

**§ 648.144 Black sea bass gear restrictions.**

(a) \* \* \*

(1) \* \* \*

(ii) Mesh sizes shall be measured pursuant to the procedure specified in § 648.108(a)(2).

\* \* \* \* \*

15. In § 648.145, revise paragraph (a) 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, per trip 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, unless otherwise specified in the conservation equivalent measures described in § 648.148(d)(2). 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. However, possession of black sea bass harvested from state waters above this possession limit is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.150 and abide by state regulations.

\* \* \* \* \*

16. Revise § 648.146 to read as follows:

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

Vessels that are not eligible for a black sea bass 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 February 1 through February 28, May 15 through December 31, unless otherwise specified in the conservation equivalent measures described in § 648.1542(d)(2) or unless this time period is adjusted pursuant to the

procedures in § 648.142. However, possession of black sea bass harvested from state waters outside of this season is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.151 and abide by state regulations.

17. In § 648.147, revise the section heading and paragraphs (b) and (c) to read as follows:

**§ 648.147 Black sea bass size requirements.**

\* \* \* \* \*

(b) *Party/Charter permitted vessels and recreational fishery participants.* The minimum fish size for black sea bass is 12.5 inches (31.75 cm) total length for all vessels that do not qualify for a black sea bass moratorium permit, and for party boats holding a black sea bass moratorium permit, if fishing with passengers for hire or carrying more than five crew members, and for charter boats holding a black sea bass moratorium permit, if fishing with more than three crew members, unless otherwise specified in the conservation equivalent measures as described in § 648.142(d)(2). However, possession of smaller black sea bass harvested from state waters is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.151 and abide by state regulations.

(c) The size limits in this section applies to the whole fish or any part of a fish found in possession (*e.g.*, fillets), except that party or charter vessels fishing exclusively in state waters possessing valid black sea bass state permits authorizing filleting at sea may possess fillets smaller than the size specified if skin remains on the fillet and all other state requirements are met.

18. Add § 648.150 to subpart I to read as follows:

**§ 648.150 Block Island Sound Transit Zone.**

(a) Vessels not issued a black sea bass Federal moratorium or party/charter permit, and recreational fishing participants fishing exclusively in state waters may transit with black sea bass harvested from state waters on board through Federal waters of the EEZ within Block Island Sound, north of a line connecting Montauk Light, Montauk Point, NY, and Block Island Southeast Light, Block Island, RI; and west of a line connecting Point Judith Light, Point Judith, RI, and Block Island Southeast Light, Block Island, RI. Within this area, possession of black sea bass is permitted regardless of the minimum and/or maximum (as applicable) size, possession limit, and seasons outlined in §§ 648.145, 648.146, and 648.147, provided no fishing takes place from the vessel while in Federal waters of the EEZ, the vessel complies with state regulations, and is in continuous transit. During such transit through this area, commercial gear must be stowed in accordance with the definition of “not available for immediate use” found at § 648.2, and party/charter vessels and recreational participants must have all bait and hooks removed from fishing rods, and any black sea bass on board must be stored in a cooler or container.

(b) The requirements of this transit zone are not necessary or applicable for recreational fishery participants during years when conservation equivalency has been adopted under conservation equivalency measures and recreational Federal measures are waived.

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