



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 250326-0055]

RIN 0648-BN51

### Fisheries of the Northeastern United States; 2025 Black Sea Bass Recreational Management Measures

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

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

**SUMMARY:** NMFS proposes Federal management measures for the 2025 black sea bass recreational fishery. The implementing regulations for this fishery require NMFS to publish recreational measures for the fishing year and to provide an opportunity for public comment. The intent of this action is to set management measures that allow this recreational fishery to achieve, but not exceed, the recreational harvest target and thereby prevent overfishing.

**DATES:** Comments must be received by [*insert date 15 days after date of publication in the FEDERAL REGISTER*].

**ADDRESSES:** A plain language summary of this proposed rule is available at: <https://www.regulations.gov/docket/NOAA-NMFS-2025-0016>. You may submit comments on this document, identified by NOAA-NMFS-2025-0016, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and type NOAA-NMFS-2025-0016 in the Search box (note: copying and pasting the FDMS Docket

Number directly from this document may not yield search results). Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

*Instructions:* 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 by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:** Savannah Lewis, Fishery Management Specialist, (978) 281-9348, or [Savannah.Lewis@noaa.gov](mailto:Savannah.Lewis@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

NMFS is proposing to implement the 2025 black sea bass recreational management measures under the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) jointly manage the summer flounder, scup, and black sea bass commercial and recreational fisheries. The Council and the Commission’s Summer Flounder, Scup, and Black Sea Bass Management Board (Board) meet jointly each year to recommend recreational management measures for all three species, generally set for two years, so that recreational harvest achieves, but does not exceed, the recreational harvest targets specified by the Percent Change Approach adopted in the Harvest Control Rule Framework (Framework 17; 88 FR 14499; March 9, 2023). In a previous rule, summer

flounder and scup recreational measures were set for two years (2024–2025; 89 FR 32374) and will remain status quo with no further action required in 2025. Black sea bass recreational management measures were previously only set for 2024 due to a delayed stock assessment. This action proposes the recreational management measures for only black sea bass and for only the 2025 fishing year.

Pursuant to the regulations at 50 CFR 648.142(d), NOAA’s National Marine Fisheries Service (NMFS) must implement coastwide measures or approve conservation-equivalent measures for black sea bass as soon as possible following the Council and Board’s recommendation. The Council and Board recommend status quo recreational black sea bass measures for 2025, including the continued use of conservation equivalency, with regional measures expected to achieve, but not exceed, the harvest target. A status quo approach for 2025 complies with Framework 17 given that the 2025 catch and landings limits were not set “in response to updated stock assessment information” and instead were left unchanged. The rationale for leaving the 2025 catch and landings limits unchanged, including the recreational harvest limit, is explained in the final rule for the 2025 specifications (89 FR 99138; December 10, 2024). According to the most recent stock assessment, the biomass of black sea bass remains well above the target level and overfishing is not occurring. Black sea bass measures are being set for only one year as an updated management track assessment is expected to be available later this year and will be used to inform specifications and recreational measures for 2026 and beyond. Therefore, the Council and Board recommended that recreational measures remain unchanged in 2025.

### **Black Sea Bass Conservation Equivalency**

Under conservation equivalency, Federal recreational measures are waived and federally permitted party/charter vessels and all recreational vessels fishing in Federal waters are subject to the recreational fishing measures implemented by the State in which

they land. This approach allows for more customized measures at a State or regional level that are likely to better meet the needs of anglers in each area, compared to coastwide measures that may be advantageous to anglers in some areas and unnecessarily restrictive in others. The combination of State/regional measures must be “equivalent” in terms of conservation to a set of “non-preferred coastwide measures,” which are recommended by the Council and the Board.

The Council and Board recommend that either state-specific recreational measures be developed (*i.e.*, conservation equivalency) or that coastwide management measures be implemented. Even when the Council and Board recommend conservation equivalency, the Council must specify a set of non-preferred coastwide measures that would apply if conservation equivalency is not approved for use in Federal waters.

When conservation equivalency is recommended, and following confirmation by the Commission that the proposed State or regional measures developed through its technical and policy review processes achieve conservation equivalency, NMFS waives the permit condition found at 50 CFR 648.4(b) that requires Federal permit holders to comply with the more restrictive management measures when State and Federal measures differ. In such a situation, federally permitted black sea bass charter/party permit holders and individuals fishing for black sea bass in the exclusive economic zone (EEZ) are subject to the recreational fishing measures implemented by the State in which they land, 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 management proposal to the Commission’s Technical Committee or that submits measures that are not conservationally equivalent to the coastwide measures.

The development of conservation-equivalency measures happens both at the

Commission and individual State or regional level. The selection of appropriate data and analytical techniques for technical review of potential conservation-equivalent measures, and the process by which the Commission evaluates and recommends proposed conservation-equivalent measures, are wholly a function of the Commission and its individual member States. Individuals seeking information regarding the process to develop specific State measures, or on 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 the States and regions select their final 2025 black sea bass 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 submitted proposals. The Commission will notify NMFS as to which proposals have been approved or disapproved. NMFS has no overarching authority in the development of State or Commission management measures but is an equal participant along with all the member States in the review process. NMFS neither approves nor implements individual States' measures, but retains the final authority either to approve or to disapprove the use of conservation equivalency in place of the coastwide measures in Federal waters. The final combination of State and regional measures will be detailed in a letter from the Commission to the Greater Atlantic Regional Fisheries Office certifying that the combination of State and regional measures has met the conservation objectives under Addendum XXXII to the Commission's Interstate FMP. NMFS will publish its determination on 2025 conservational equivalency as a final rule in the **Federal Register** following review of the Commission's determination and any other public comment on this proposed rule.

### **2025 Black Sea Bass Recreational Management Measures**

This action proposes the continued adoption of conservation equivalency for

black sea bass in 2025. The non-preferred coastwide and precautionary default measures would be the same in 2025 as they were in 2024.

The non-preferred coastwide measures for 2025 include: (1) a 15-inch (38.1-cm) minimum size; (2) a 5-fish possession limit; and (3) a May 15–September 8 open season. The precautionary default measures would be implemented in any State or region that failed to develop adequate measures to constrain landings as required by the conservation-equivalency guidelines. The precautionary default measures in 2025 include: (1) a 16-inch (40.64-cm) minimum size; (2) a 2-fish possession limit; and (3) a June 1–August 31 open season.

### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Acting 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.

Section 304(b) of the Magnuson-Stevens Act (16 U.S.C. 1854(b)) requires publication of proposed regulations in the Federal Register with a public comment period of 15 to 60 days. NMFS finds that a 15-day comment period for this action provides a reasonable opportunity for public participation in this action pursuant to Administrative Procedure Act section 553(c) (5 U.S.C. 553(c)), while also ensuring that the final recreational measures are in place as close to the start of State black sea bass fishery seasons in early May 2025, as possible. This is a routine action that occurs every year, and stakeholder and industry groups have been involved with the development of this action and have participated in public meetings throughout their development over the past year. A longer comment period here would be contrary to the public interest, as it could extend this rulemaking beyond the start of the 2025 recreational fishing season,

resulting in confusion for fishery participants, disadvantage Federal permit holders, and create enforcement challenges.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule is being issued in compliance with Executive Order 14192.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The Council conducted an evaluation of the potential socioeconomic impacts of the proposed measures.

Vessel ownership data<sup>1</sup> were used to identify all individuals who own fishing vessels. Vessels were then grouped according to common owners. The resulting groupings were then treated as entities, or affiliates, for purposes of identifying small and large businesses that may be regulated by this action. A business primarily engaged in fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates) and has combined annual receipts not in excess of \$11 million, for all its affiliated operations worldwide (North American Industry Classification System (NAICS) code 487210).

A total of 490 affiliates had a Federal party/charter permit for all permit types, not just black sea bass, during 2021–2023. All 490 affiliates were categorized as small businesses based on their average 2021–2023 revenues for any species. It is not possible to determine what proportion of their revenues came from fishing for an individual species. Nevertheless, given the popularity of black sea bass as a recreational species, revenues generated from this species are likely important for many of these affiliates at

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<sup>1</sup> Affiliate data for 2021-2023 were provided by the NMFS Northeast Fisheries Science Center Social Sciences Branch. This is the latest affiliate data set available for analysis.

certain times of the year.

These 490 small businesses had average total annual revenues of \$119,320 during 2021–2023. Their average revenues from recreational for-hire fishing (for a variety of species) were \$107,429. Average annual revenues from for-hire fishing ranged from less than \$10,000 for 198 affiliates to over \$1,000,000 for 11 affiliates. On average, recreational fishing accounted for 87 percent of the total revenues for these 490 small businesses. The contribution of black sea bass to these revenues is unknown.

For-hire revenues are impacted by a variety of factors, including regulations and demand for for-hire trips for black sea bass, and other potential target species, as well as weather, the economy, and other factors. Given that the State/regional measures for black sea bass are expected to remain unchanged from 2024, no impacts from the proposed action are expected.

Based on the analysis provided by the Council, NOAA’s National Marine Fisheries Service concludes that the 2025 black sea bass recreational management measures will not have a significant adverse impact on a substantial number of small businesses. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Dated: March 26, 2025.

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**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs,*

*National Marine Fisheries Service.*

## List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 648 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 § 648.151, revise paragraphs (a) and (b) to read as follows:

#### **§ 648.151 Black sea bass conservation equivalency.**

(a) The Regional Administrator has determined that the recreational fishing measures proposed to be implemented by the States of Maine through North Carolina for 2025 are the conservation equivalent of the season, size limits, and possession limit prescribed in §§ 648.146, 648.147(b), and 648.145(a). This determination is based on a recommendation from the Summer Flounder, Scup, and Black Sea Bass Board of the Atlantic States Marine Fisheries Commission.

(1) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels harvesting black sea bass in or from the EEZ and subject to the recreational fishing measures of this part, landing black sea bass in a State whose fishery management measures are determined by the Regional Administrator to be conservation equivalent shall not be subject to the more restrictive Federal measures, pursuant to the provisions of § 648.4(b). Those vessels shall be subject to the recreational fishing measures implemented by the State in which they land.

(2) [Reserved]

(b) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels registered in States and subject to the recreational fishing measures of this part, whose fishery management measures are not

determined by the Regional Administrator to be the conservation equivalent of the season, size limits and possession limit prescribed in §§ 648.146, 648.147(b), and 648.145(a), respectively, due to the lack of, or the reversal of, a conservation-equivalent recommendation from the Summer Flounder, Scup, and Black Sea Bass Board of the Atlantic States Marine Fisheries Commission shall be subject to the following precautionary default measures: Season – June 1 through August 31; minimum size - 16 inches (40.64 cm); and possession limit - 2 fish.

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