

conservation benefits and who claim a lower rate of lost fish on circle hooks. Based on the economic incentives discussed above, the input from experienced billfish anglers who have acquired expertise with circle hooks, and existing studies (Prince *et al.*, 2002) indicating that hook type (circle hook vs. J-hook) is not a significant factor in catchability of Atlantic blue marlin, NMFS is confident that the concerns of anglers regarding the effectiveness of circle hooks for catching blue marlin and the resistance to using circle hooks stemming from preconceived ideas of circle hook efficacy and a lack of experience with circle hooks will be overcome if anglers are given more time to become familiar and proficient with them through an additional phase-in period. NMFS believes that in the long-term, the additional time provided to anglers to become more familiar and proficient with circle hooks may lead to higher levels of compliance with circle-hook requirements and increased use of circle hooks outside of tournaments thereby providing an increased conservation benefit for Atlantic billfish in the long-term.

NMFS estimates that there will be few or no measurable social or economic impacts resulting from the preferred alternative. However, it is possible that the temporary suspension of billfish tournament circle hook requirements may provide for a short-term increase in angler's willingness to pay based on the perception among many anglers that it is easier to catch a billfish with a J-hooks than a circle hook. Nonetheless, based in part on recent high levels of tournament registrations for 2007 occurring under circle hook requirements, NMFS does not anticipate any measurable change in billfish tournament participation, increases in purchases of fuel or dockage, or other shore-side services. Should alternative 2 result in an increased ecological benefit, there could be a long-term gain in angler's willingness to pay if billfish stocks recover and interactions with billfish increase.

NMFS does not anticipate that alternative 2 would result in additional expenditures to comply with the proposed regulations. Relative to expenditures that can quickly reach into the hundreds of thousands of dollars, or more, to purchase, equip, maintain, and fuel sportfishing vessels, hook expenditures are negligible. The FCHMS FMP identifies hook prices as ranging from \$0.50 to \$7.50 (\$2.70 average) each for J-hooks and from \$0.30 to \$7.00 (\$2.24 average) each for circle hooks (2006 dollars). Tournament anglers likely already possess circle hooks

which have been required since January 1, 2007, and which would be required upon reinstatement of existing requirements on January 1, 2008, under the preferred alternative. Further, existing regulations allow anglers to use J-hooks on artificial lures in tournaments and do not require anglers to utilize circle hooks outside of tournaments; because of this, anglers most likely already possess J-hooks, should they choose to stop using circle hooks in tournaments. Alternative 2 does not mandate any particular terminal tackle, so anglers would be free to use any hook type, circle or J, available and which they already possess, which would further minimizing any potential compliance costs.

Alternative 3, would remove Atlantic billfish tournament circle hook requirements and promote voluntary use of circle hooks by tournament anglers, and would be expected to have minimal impacts on businesses. Minor economic impacts would be incurred by those tournaments that choose to reprint tournament rules for distribution. Alternative 3 could result in minor short-term increases in angler-consumer surplus and/or willingness to pay, as anglers may perceive that their short-term catch rates of Atlantic billfish may increase with the use of J-hooks. However, alternative 3 would not be expected to increase angler consumer surplus or willingness to pay in the long-term as it would result in an increase in post-release hooking mortality and thus be less likely to contribute to rebuilding of Atlantic billfish populations.

List of Subjects in 50 CFR Part 635

Fish, Fisheries, Fishing, Fishing vessels, Management.

Dated: March 9, 2007.

William T. Hogarth,

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

For reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

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

2. In § 635.21, paragraph (e)(2)(iii) is revised to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(2)* * *

(iii) After December 31, 2007, persons who have been issued or are required to be issued a permit under this part and who are participating in a "tournament", as defined in 635.2, that bestows points, prizes, or awards for Atlantic billfish must deploy only non-offset circle hooks when using natural bait or natural bait/artificial lure combinations, and may not deploy a J-hook or an offset circle hook in combination with natural bait or a natural bait/artificial lure combination.

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[FR Doc. 07-1216 Filed 3-12-07; 2:43 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 061020273-7054-04; I.D. 030107B]

RIN 0648-AT60

Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2007

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes recreational management measures for the 2007 summer flounder, scup, and black sea bass fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the upcoming 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 March 30, 2007.

ADDRESSES: You may submit comments by any of the following methods:

- *E-mail:*

FSBrecreational2007@noaa.gov. Include in the subject line the following identifier: "Comments on 2007 Summer Flounder, Scup, and Black Sea Bass Recreational Measures."

- *Federal e-rulemaking portal:* <http://www.regulations.gov>

- *Mail:* Patricia A. Kurkul, Regional Administrator, NMFS, Northeast

Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope: "Comments on 2007 Summer Flounder, Scup, and Black Sea Bass Recreational Measures.

• Fax: (978) 281-9135

Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and of the Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901-6790. The EA/RIR/IRFA is also accessible via the Internet at <http://www.nero.noaa.gov>.

FOR FURTHER INFORMATION CONTACT:

Michael P. Ruccio, Fishery Policy Analyst, (978) 281-9104.

SUPPLEMENTARY INFORMATION:

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 management units specified in the Fishery Management Plan (FMP) for the Summer Flounder, Scup, and Black Sea Bass Fisheries 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°15.3' N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, NC) northward to the U.S./Canada border.

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 measures that apply in the Exclusive Economic Zone (EEZ). The states manage these fisheries within 3 miles of their coasts, under the Commission's plan for summer flounder, scup, and black sea bass. The Federal regulations govern vessels fishing in the EEZ, as well as vessels possessing a Federal fisheries permit, regardless of where they fish.

The FMP established Monitoring Committees (Committees) for the three fisheries, consisting of representatives from the Commission; the Mid-Atlantic,

New England, and South Atlantic Councils; and NMFS. The FMP and its implementing regulations require the Committees to review scientific and other relevant information annually and to recommend management measures necessary to achieve the recreational harvest limits established for the summer flounder, scup, and black sea bass fisheries for the upcoming fishing year. The FMP limits these 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 Committees' recommendations and any public comment in making their recommendations to the Council and the Commission, respectively. The Council then 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.

Quota specifications for the 2007 summer flounder, scup, and black sea bass fisheries were published on December 14, 2006 (71 FR 75134). The summer flounder quota specification was later increased by emergency rule on January 19, 2007 (72 FR 2458), consistent with the provisions of the Magnuson-Stevens Fishery Conservation and Management Act Reauthorization of 2006. The summer flounder emergency rule will expire after 180 days, on July 18, 2007, unless extended by NMFS. NMFS intends to undertake notice and comment rulemaking in the **Federal Register** before the current emergency rule expires to extend the initial rule's measures through the fishing year ending December 31, 2007. However, should the emergency rule not be extended for any reason, the original summer flounder quota specification would become effective again and NMFS would revise the summer flounder recreational measures to be consistent with the lower recreational harvest limit. The quota specification contained in the emergency rule has been determined to be consistent with the 2007 target fishing mortality rate (F) for summer flounder. The specifications contained in the December 14, 2006, rule were determined to be consistent with the 2007 target exploitation rates for scup and black sea bass.

Based on the specifications currently in place, the 2007 coastwide recreational harvest limits are 6,844,800 lb (3,105 mt) for summer flounder, 2,744,200 lb (1,245 mt) for scup, and 2,473,500 lb (1,122 mt) for black sea bass. The specification rules did not establish recreational measures, since final recreational catch data for 2006 were not available when the Council made its recreational harvest limit recommendation to NMFS.

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.

Summer Flounder

Overall, recreational landings for 2006 were estimated to have been 11.74 million lb (5,325 mt). This exceeded, by approximately 26 percent, the 2006 recreational harvest limit of 9.29 million lb (4,214 mt). Five individual states are projected to have exceeded their 2006 state harvest limits when their allocations are converted to number of fish using the average weight of summer flounder harvested during 2005 and 2006. These states are, with their respective percent overage, as follows: MA (2 percent); RI (25 percent); NY (29 percent); NJ (9 percent); and VA (41 percent).

The 2007 coastwide harvest limit is 6,844,800 lb (3,105 mt), a 26.4-percent decrease from the 2006 harvest limit. Assuming the same level of fishing effort in 2007, a 41.7-percent reduction in landings coastwide would be required for summer flounder. The Council is recommending conservation equivalency, described as follows, that would require individual states to reduce summer flounder landings (in number of fish) to achieve the necessary recreational harvest reductions for 2007.

NMFS implemented Framework Adjustment 2 to the FMP (Framework Adjustment 2) on July 29, 2001 (66 FR 36208), which established a process that makes conservation equivalency an option for the summer flounder recreational 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, as long as the combined effect of all of the states' management measures achieves the same level of conservation as would Federal coastwide measures developed to achieve the overall

recreational harvest limit, if implemented by all of the states.

The Council and Board recommend annually that either state-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. If conservation equivalency is recommended, and following confirmation that the proposed state measures would achieve conservation equivalency, NMFS may waive the permit condition found at § 648.4(b), which requires federally permitted vessels to comply with the more restrictive management measures when state and Federal measures differ. Federally permitted charter/party permit holders and recreational vessels

fishing for summer flounder in the EEZ then would 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. 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 are determined not to achieve the required reduction. The precautionary default measures are defined as the set of measures that would achieve the greatest reduction in landings required for any state.

In December 2006, the Council and Board voted to recommend conservation equivalency to achieve the 2007 recreational harvest limit. The Commission's conservation equivalency guidelines require the states to

determine and implement appropriate state-specific management measures (i.e., possession limits, fish size limits, and fishing seasons) to achieve state-specific harvest limits. Under this approach, each state may implement unique management measures appropriate to that state, so long as these measures are determined by the Commission to provide equivalent conservation as would Federal coastwide measures developed to achieve the overall recreational harvest limit. According to the conservation equivalency procedures established in Framework Adjustment 2, each state from MA to NC, excluding MD, would be required to reduce 2007 landings by the percentages shown in Table 1. MD may submit more liberal management measures, provided that they are sufficient to meet the 2007 state harvest limit. ME and NH have no recreational summer flounder harvest limit and are not required to submit management measures to the Commission.

TABLE 1. REQUIRED STATE BY STATE REDUCTIONS IN SUMMER FLOUNDER RECREATIONAL HARVEST LIMITS FOR 2007.

State	ME	NH	MA	RI	CT	NY	NJ	DE	MD	VA	NC
Percent change from 2006 to 2007	—	—	-35.3	-47.2	-13.7	-48.6	-39.5	-29.3	0.0	-53.0	-8.1

The Board required that each state submit its conservation equivalency proposal to the Commission by January 15, 2007. The Commission's Summer Flounder Technical Committee then evaluated the proposals and advised the Board of each proposal's consistency with respect to achieving the coastwide recreational harvest limit. The Commission invited public participation in its review process by allowing public comment on the state proposals at the Technical Committee meeting held on January 22, 2007. The Board met on January 31, 2007, and approved a range of management proposals for each state, as well as regional and coastwide management options designed to attain conservation equivalency. Once the states select and submit their final summer flounder management measures to the Commission, the Commission will notify NMFS as to which individual state, regional, or coastwide proposals have been approved or disapproved. NMFS retains the final authority either to approve or to disapprove using conservation equivalency in place of the coastwide measures and will publish its determination as a final rule in the **Federal Register** to establish the 2007 recreational measures for these fisheries.

States that do not submit conservation equivalency proposals, or for which proposals were 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).

As described above, for each fishing year, NMFS implements either coastwide measures or conservation equivalent measures at the final rule stage. The coastwide measures recommended by the Council and Board for 2007 are a 19-inch (48.26-cm) minimum fish size, a possession limit of one fish, and an open season from January 1 through December 31. In this action, NMFS proposes these coastwide measures in the EEZ, as they are expected to constrain landings to the overall recreational harvest. These measures would be waived if conservation equivalency is approved.

The precautionary default measures specified by the Council and Board are an 18.5-inch (46.99-cm) minimum fish size, a possession limit of one fish, and an open season of January 1 through

December 31. These measures are also estimated to achieve the 2007 target if applied coastwide.

Scup

The 2007 scup recreational harvest limit is approximately 2.74 million lb (1,245 mt), a 34-percent decrease from the 2006 recreational harvest limit of 4.15 million lb (1,882 mt). Recreational landings in 2006 were estimated to have been 2.8 million lb (1,270 mt). The 2.1-percent difference in the estimated 2006 landings and 2007 target is well within the percent standard error for scup landings estimated from the Marine Recreational Fishery Statistics Survey (MRFSS). As such, no reduction from the 2006 measures would be necessary for 2007, as the status quo measures are unlikely to result in exceeding the 2007 target.

The 2007 scup recreational fishery will be managed under separate regulations for state and Federal waters; the Federal measures would apply to party/charter vessels with Federal permits and other vessels subject to the possession limit that fish in the EEZ. In Federal waters, to achieve the 2007 target, NMFS proposes to maintain the status quo coastwide management measures of a 10-inch (25.40-cm) minimum fish size, a 50-fish possession

limit, and open seasons of January 1 through February 28, and September 18 through November 30, as recommended by the Council.

As has occurred in the past 5 years, the scup fishery in state waters will be managed under a regional conservation equivalency system developed through the Commission. Addendum XI to the Interstate FMP (Addendum XI), approved by the Board at the January 2004 Council/Commission meeting, requires that the states of Massachusetts through New York each develop state-specific management measures to constrain their landings to an annual harvest level for this region in number of fish (approximately 3.1 million fish for 2007), through a combination of minimum fish size, possession limits, and seasonal closures. Because the Federal FMP does not contain provisions for conservation equivalency, and states may adopt their own unique measures under Addendum XI, the Federal and state recreational scup management measures will differ for 2007.

At the January 31, 2007, meeting, the Board approved a regional management proposal for MA through NY that would allow a season of at least 150 days. The Board retained a minimum fish size of 10.5 inches (26.7 cm) and a common possession limit (25 fish for private vessels and shore-based anglers; and 60 fish for party/charter vessels, dropping to 25 fish after a 2-month period) for the states of MA through NY. These northern states are expected to submit their final management measures to the Commission by March 1, 2007. New Jersey will maintain status quo scup recreational management measures of a 9-inch (22.9-cm) minimum size, a 50-fish possession limit, and open seasons of January 1 through February 28, and July 1 through December 31. Due to low scup landings in Delaware through North Carolina, the Board approved the retention of status quo management measures for those states as well, i.e., an 8-inch (20.3-cm) minimum fish size, a 50-fish possession limit, and no closed season.

Black Sea Bass

Recreational landings in 2007 were estimated to have been 1.91 million lb (866 mt)-- 52 percent below the 2006 target of 3.99 million lb (1,809 mt) and 23 percent below the 2007 target of 2.47 million lb (1,122 mt). The 2007 recreational harvest limit of 2.47 million lb (1,122 mt) is a 38-percent decrease from the 2006 target. Based on 2006 landings, no reduction in landings is necessary to achieve the 2007 target.

For Federal waters, the Council and Board have approved measures that would maintain the 25-fish possession limit, the 12-inch (30.48-cm) minimum size, and open season of January 1 through December 31. NMFS proposes to maintain these measures, which are expected to constrain recreational black sea bass landings to the 2007 target.

Classification

NMFS has determined that the proposed rule is consistent with the FMP and preliminarily determined that the rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

An IRFA was prepared, as required by section 603 of the RFA. 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 section of the preamble. A summary of the analysis follows. A copy of the complete IRFA is available from the Council (see ADDRESSES).

This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

The proposed action 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 IRFA focuses upon the impacts on party/charter vessels issued a Federal permit for summer flounder, scup, and/or black sea bass because these vessels are considered small business entities for the purposes of the RFA, i.e., businesses with gross revenues of up to \$3.5 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 individual recreational anglers are likely to be impacted, they are not considered small entities under the RFA. Also, there is no permit requirement to participate in these fisheries; thus, it would be difficult to quantify any impacts on recreational anglers in general.

The Council estimated that the proposed measures could affect any of the 920 vessels possessing a Federal charter/party permit for summer

flounder, scup, and/or black sea bass in 2005, the most recent year for which complete permit data are available. However, only 331 of these vessels reported active participation in the recreational summer flounder, scup, and/or black sea bass fisheries in 2005.

In the IRFA, the no-action alternative (i.e., maintenance of the regulations as codified) is defined as implementation of the following: (1) for summer flounder, coastwide measures of a 17-inch (43.18-cm) minimum fish size, a 4-fish possession limit, and no closed season, i.e., the current Federal regulatory measure that would be implemented if conservation equivalency is not implemented in the final rule; (2) for scup, a 10-inch (25.40-cm) minimum fish size, a 50-fish possession limit, and open seasons of January 1 through February 28, and September 18 through November 30; and (3) for black sea bass, a 12-inch (30.48-cm) minimum size, a 25-fish possession limit, and an open season of January 1 through December 31.

The no-action alternatives for scup and black sea bass are the same (status quo) measures being proposed for 2007. Landings of these species in 2006 were either less than their respective target (black sea bass) or within the within the average observed percent standard error for the estimated landings (scup), and the status quo measures are expected to constrain landings to the 2007 targets. As such, since there is no regulatory change being proposed for these two species, there is no need of further discussion of the economic impacts within this section.

For summer flounder, state-specific implications of adopting the no-action (coastwide) alternative would result in more restrictive measures than conservation equivalent regulations in place for all Northeast (NE) states in 2006. In consideration of the recreational harvest limits established for the 2007 fishing year, taking no action in the summer flounder fishery would be inconsistent with the goals and objectives of the FMP and its implementing regulations because the no-action alternative would not be expected to prevent the 2007 summer flounder recreational harvest limits from being exceeded.

Effects of the various management measures were analyzed by employing quantitative approaches, to the extent possible. Where quantitative data were not available, the Council conducted qualitative analyses. Although NMFS's RFA guidance recommends assessing changes in profitability as a result of proposed measures, the quantitative impacts were instead evaluated using

changes in party/charter vessel revenues as a proxy for profitability. This is because reliable cost data are not available for these fisheries. Without reliable cost 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.

Assessments of potential changes in gross revenues for all 18 combinations of alternatives proposed in this action were conducted for federally permitted party/charter vessels in each state in the NE region. Management measures proposed under the summer flounder conservation equivalency alternative have yet to be adopted; therefore, potential losses under this alternative could not be analyzed in conjunction with alternatives proposed for scup and black sea bass. Since conservation equivalency allows each state to tailor specific recreational fishing measures to the needs of that state, while still achieving conservation goals, it is likely that the measures developed under this alternative, when considered in combination with the measures proposed for scup and black sea bass, would have fewer overall adverse effects than any of the other combinations that were analyzed.

Impacts were examined by first estimating the number of angler trips aboard party/charter vessels in each state in 2006 that would have been affected by the proposed 2007 management measures. All 2006 party/charter fishing trips that would have been constrained by the proposed 2007 measures in each state were considered to be affected trips.

There is very little information available to estimate empirically how sensitive the affected party/charter vessel anglers might be to the proposed fishing regulations. If the proposed measures discourage trip-taking behavior among some of the affected anglers, economic losses may accrue to the party/charter vessel industry in the form of reduced access fees. On the other hand, if the proposed measures do not have a negative impact on the value or satisfaction the affected anglers derive from their fishing trips, party/charter revenues would remain unaffected by this action. In an attempt to estimate the potential changes in gross revenues to the party/charter vessel industry in each state, two hypothetical scenarios were considered: A 25-percent reduction, and a 50-

percent reduction, in the number of fishing trips that are predicted to be affected by implementation of the management measures in the NE (ME through NC) in 2007.

Total economic losses to party/charter vessels were then estimated by multiplying the number of potentially affected trips in each state in 2007, under the two hypothetical scenarios, by the estimated average access fee paid by party/charter anglers in the NE in 2006. Finally, total economic losses were divided by the number of federally permitted party/charter vessels that participated in the summer flounder fisheries in 2005 in each state (according to homeport state in the NE database) to obtain an estimate of the average projected gross revenue loss per party/charter vessel in 2007.

MRFSS data indicate that anglers took 36.98 million fishing trips in 2006 in the Northeastern U.S., and that party/charter anglers accounted for 5.1 percent of the angler fishing trips. The number of party/charter trips in each state ranged from approximately 29,700 in NH to approximately 510,000 in DE. The number of trips that targeted summer flounder was identified, as appropriate, for each measure, and the number of trips that would be impacted by the proposed measures was estimated. Finally, the revenue impacts were estimated by calculating the average fee paid by anglers on party/charter vessels in the NE in 2006 (\$41.07 per angler), and the revenue impacts on individual vessels were estimated. The analysis assumed that angler effort and catch rates in 2007 will be similar to 2006.

The Council noted that this method is likely to result in overestimation of the potential revenue losses that would result from implementation of the proposed coastwide measures in these three fisheries for several reasons. First, the analysis likely overestimates the potential revenue impacts of these measures because some anglers would continue to take party/charter vessel trips, even if the restrictions limit their landings. Also, some anglers may engage in catch and release fishing and/or target other species. It was not possible to estimate the sensitivity of anglers to specific management measures. Second, the universe of party/charter vessels that participate in the fisheries is likely to be even larger than presented in these analyses, as party/charter vessels that do not possess a Federal summer flounder, scup, or black sea bass permit because they fish only in state waters are not represented in the analyses. Considering the large proportion of landings from state waters

(e.g., more than 81 percent of summer flounder landings in 2005), it is probable that some party/charter vessels fish only in state waters and, thus, do not hold Federal permits for these fisheries. Third, vessels that hold only state permits likely will be fishing under different, potentially less restrictive, recreational measures for summer flounder in state waters, if such program is implemented in the final rule.

Impacts of Summer Flounder Alternatives

The proposed action for the summer flounder recreational fishery would limit coastwide catch to approximately 6.84 million lb (3,105 mt) by imposing coastwide Federal measures throughout the EEZ. As described earlier, upon confirmation that the proposed state measures would achieve conservation equivalency, NMFS may waive the permit condition found at § 648.4(b), which requires federally permitted vessels to comply with the more restrictive management measures when state and Federal measures differ. Federally permitted charter/party permit holders and recreational vessels fishing for summer flounder in the EEZ then would be subject to the recreational fishing measures implemented by the state in which they land summer flounder, rather than the coastwide measures.

The impact of the proposed summer flounder conservation equivalency alternative (in Summer Flounder Alternative 1) among states is likely to be similar to the level of landings reductions that are required of each state. As indicated above, each state except MD would be required to reduce summer flounder landings in 2007, relative to state 2006 landings, by the percentages shown in Table 1 of the preamble of this proposed rule. If the preferred conservation equivalency alternative is effective at achieving the recreational harvest limit, then it is likely to be the only alternative that minimizes adverse economic impacts, to the extent practicable, yet achieves the biological objectives of the FMP. Because states have a choice, it is expected that the states would adopt conservation equivalent measures that result in fewer adverse economic impacts than the much more restrictive precautionary default measures (i.e., only one fish measuring at least 18.5 inches (46.99 cm)). Under the precautionary default measures, impacted trips are defined as trips taken in 2006 that landed at least one summer flounder smaller than 18.5 inches (46.99 cm) or landed more than one summer flounder. The analysis concluded that

implementation of precautionary default measures could affect 4.06 percent of the party/charter vessel trips in the NE, including those trips where no summer flounder were caught.

The impacts of the proposed summer flounder coastwide alternative (Summer Flounder Alternative 2), i.e., a 19-inch (48.26-cm) minimum fish size, a one-fish possession limit, and no closed season, were evaluated using the quantitative method described above. Impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2006 that landed at least one summer flounder smaller than 19 inches (48.26 cm), or that landed more than one summer flounder. The analysis concluded that the measures would affect 4.13 percent of the party/charter vessel trips in the NE, including those trips where no summer flounder were caught.

Combined Impacts of Summer Flounder, Scup, and Black Sea Bass Alternatives

Since the management measures under Summer Flounder Alternative 1 (i.e., conservation equivalency) have yet to be adopted, the effort effects of this alternative could not be analyzed in conjunction with the alternatives proposed for scup and black sea bass. The percent of total party/charter boat trips in the NE that are estimated to be affected by the proposed actions ranges from a low of 6.24 percent for the combination of measures proposed under the summer flounder precautionary default, scup alternative 1, and black sea bass alternative 2, to 7.30 percent for the measures proposed under summer flounder alternative 2 combined with scup alternative 2 and black sea bass alternative 3.

Regionally, party/charter revenue losses in 2007 from \$4.392 million to \$3.753 million in sales, \$1.370 million to \$1.588 million in income, and between 37 and 43 jobs if a 25-percent reduction in the number of affected trips occurs. The estimated losses are approximately twice as high if a 50-percent reduction in affected trips is assumed to occur.

Potential revenue losses in 2007 could differ for party/charter vessels that land more than one of the regulated species. The cumulative maximum gross revenue loss per vessel varies by the combination of permits held and by state. All 18 potential combinations of

management alternatives for summer flounder, scup, and black sea bass are predicted to affect party/charter vessel revenues to some extent in all of the Northeastern coastal states. Although potential losses were estimated for party/charter vessels operating out of Maine and New Hampshire, these results are suppressed for confidentiality purposes. Average party/charter losses for federally permitted vessels operating in the remaining states are estimated to vary across the 18 combinations of alternatives. For example, in New York, average losses are predicted to range from \$4,834 per vessel under the combined effects of summer flounder precautionary default measures (considered under alternative 1), scup alternative 1, and black sea bass alternative 2 management measures, to \$6,122 per vessel under the combined effects of summer flounder alternative 2, scup alternative 2, and black sea bass alternative 3 management measures, assuming a 25-percent reduction in effort, as described above.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

Dated: March 9, 2007.

William T. Hogarth,

*Assistant Administrator for Fisheries,
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 § 648.103, paragraph (b) is revised to read as follows:

§ 648.103 Minimum fish sizes.

(b) Unless otherwise specified pursuant to § 648.107, the minimum size for summer flounder is 19 inches (48.26 cm) TL for all vessels that do not qualify for a moratorium permit, 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 § 648.105, the first sentence of paragraph (a) is revised to read as follows:

§ 648.105 Possession restrictions.

(a) Unless otherwise specified pursuant to § 648.107, no person shall possess more than one 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.

4. In § 648.107, paragraph introductory text (a) and paragraph (b) are 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 2007 are the conservation equivalent of the season, minimum fish size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

(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 §§ 648.102, 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 - January 1 through December 31; minimum size - 18.5 inches (46.99 cm); and possession limit - one fish.

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