

■ 4. Amend § 223.11 by revising the section heading to read as follows:

§ 223.11 Requirements for locomotives built or rebuilt prior to July 1, 1980.

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■ 5. Amend § 223.13 by revising the section heading to read as follows:

§ 223.13 Requirements for cabooses built or rebuilt prior to July 1, 1980.

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■ 6. Amend § 223.15 by revising the section heading to read as follows:

§ 223.15 Requirements for passenger cars built or rebuilt prior to July 1, 1980.

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■ 7. Amend appendix A to part 223 by revising paragraphs b.(6), (10), (11), (13), and (15) to read as follows:

Appendix A to Part 223—Certification of Glazing Materials

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b. * * *

(6) The Witness Plate shall be an unbacked sheet of maximum 0.006-inch, alloy 1100 temper O, aluminum stretched within the perimeter of a suitable frame to provide a taut surface. If a steel ball is used for Large Object Impact testing, the Witness Plate shall be an unbacked sheet of maximum 0.002-inch, alloy 1145 temper H19 or equivalent, aluminum stretched within the perimeter of a suitable frame to provide a taut surface.

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(10) The Test Specimen for glazing material that is intended for use in end facing glazing locations shall be subjected to a Type I test regimen consisting of the following tests:

(i) Ballistic Impact: A standard 22 caliber long rifle lead bullet of 40 grains in weight impacts at a minimum velocity of 960 feet per second.

(ii) Large Object Impact:

(A) A cinder block weighing a minimum of 24 lbs with dimensions of 8 inches by 8 inches by 16 inches nominally impacts the glazing surface at the corner of the block at a minimum velocity of 44 feet per second. The cinder block must be of composition making it structurally sound, such as referenced in ASTM, International (ASTM) Specification C33 or ASTM C90; or

(B) A steel ball (e.g., ball bearing or shot put) weighing a minimum of 12 lbs impacts the glazing surface at a minimum velocity of 62.5 feet per second.

(11) The Test Specimen for glazing material that is intended for use only in sidfacing glazing locations shall be subjected to a Type II test regimen consisting of the following tests:

(i) Ballistic Impact: A standard 22 caliber long rifle lead bullet of 40 grains in weight impacts at a minimum velocity of 960 feet per second.

(ii) Large Object Impact:

(A) A cinder block weighing a minimum of 24 lbs with dimensions of 8 inches by 8 inches by 16 inches nominally impacts the glazing surface at the corner of the block at

a minimum velocity of 12 feet per second. The cinder block must be of composition making it structurally sound, such as referenced in ASTM C33–18 or ASTM C90; or

(B) A solid steel ball (e.g., ball bearing or shot put) weighing a minimum of 12 lbs impacts the glazing surface at a minimum velocity of 17 feet per second.

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(13) Except as provided in paragraphs b.(10)(ii)(B) and b.(11)(ii)(B) of this appendix, two different test specimens must be subjected to the large object impact portion of the tests. For purposes of paragraphs b.(10)(ii)(B) and b.(11)(ii)(B), four different test specimens shall be subjected to each impact test.

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(15) Except as provided in paragraphs b.(10)(ii)(B) and b.(11)(ii)(B) of this appendix, test specimens must consecutively pass the required number of tests at the required minimum velocities. Individual tests resulting in failures at greater than the required minimum velocities may be repeated but a failure of an individual test at less than the minimum velocity shall result in termination of the total test and failure of the material. For purposes of paragraphs b.(10)(ii)(B) and b.(11)(ii)(B), three out of four test specimens must pass the test for the glazing material to be acceptable. Individual tests resulting in a failure at velocities above the prescribed range may be repeated.

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Issued in Washington, DC.

Amitabha Bose,

Administrator.

[FR Doc. 2022–24469 Filed 11–16–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 221110–0237]

RIN 0648–BL43

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Amendment 22 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan

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

ACTION: Final rule.

SUMMARY: This action implements approved measures for Amendment 22 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management

Plan. Amendment 22 was developed by the Mid-Atlantic Fishery Management Council to revise summer flounder, scup, and black sea bass commercial and recreational sector allocations. Amendment 22 is intended to ensure that the best available science is used to determine commercial and recreational sector allocations.

DATES: Effective January 1, 2023.

ADDRESSES: Copies of Amendment 22, including the Environmental Assessment, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared in support of this action are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. The supporting documents are also accessible via the internet at: https://www.mafmc.org/s/SFSBSB_com_rec_allocation_EA-final_6-24-22.pdf.

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Policy Analyst, (978) 281–9116.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) cooperatively manage the summer flounder, scup, and black sea bass fisheries. The Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) outlines the allocation of quota, for each species, between the commercial and recreational fisheries. Amendment 22 reevaluated and recommended revisions to the commercial and recreational sector allocations in the Summer Flounder, Scup, and Black Sea Bass FMP. Amendment 22 was initiated, in part, to address the allocation-related impacts of the revised recreational catch and landings data provided by the Marine Recreational Information Program (MRIP). Specifically, Amendment 22 considered:

1. Changing the allocations between the commercial and recreational sectors for summer flounder, scup, and black sea bass;

2. Adding an option to transfer a portion of the allowable landings each year between the commercial and recreational sectors, in either direction, based on the needs of each sector; and

3. Adding the option for future additional changes to the commercial/recreational allocation and transfer provisions to be considered through an FMP addendum/framework action, as opposed to an amendment.

Amendment 22 was approved by the Council and Commission in December 2021. A notice of availability (NOA) for the amendment published in the **Federal Register** on August 12, 2022 (87 FR 49796), with a comment period ending on October 11, 2022. We published a proposed rule in the **Federal Register** on August 11, 2022 (87 FR 49573), with a comment period ending on September 12, 2022.

When a Council approves and then transmits a fishery management plan or amendment to NMFS, NMFS publishes a notice of availability in the **Federal Register** announcing a 60-day comment period. Within 30 days of the end of the comment period, NMFS must approve, disapprove, or partially approve the plan or amendment based on consistency with law. After considering public comment on the NOA and proposed rule, we approved Amendment 22 on November 7, 2022. This final rule implements the management measures in Amendment 22. The details of the development of the measures in Amendment 22 were described in the NOA and proposed rule, and are not repeated here.

Approved Measures

This action implements changes to the commercial and recreational allocations for summer flounder, scup,

and black sea bass. The original commercial and recreational allocations for all three species were established in the mid-1990s, based on historical proportions of landings (for summer flounder and black sea bass) and catch (for scup) from each sector.

In July 2018, MRIP released revised time series of catch and harvest estimates based on adjustments to its angler intercept methodology, which is used to estimate recreational catch rates, as well as changes to its effort estimation methodology, namely, a transition from a telephone-based effort survey to a mail-based effort survey for the private/rental boat and shore-based fishing modes. These revisions collectively resulted in higher recreational catch estimates compared to previous estimates, affecting the entire time series of data going back to 1981. The revised MRIP estimates were incorporated into the stock assessments for summer flounder in 2018 and for scup and black sea bass in 2019. This impacted the estimated stock biomass and resulting catch limits for these species.

The revised MRIP time series created a mismatch between the data that were used to set the allocations and the data currently used in fishery management for setting catch limits. Changes to commercial catch data have also been

made since the allocations were established. The allocation changes approved through Amendment 22 seek to ensure that the best available data is used to determine commercial and recreational sector allocations.

Amendment 22 considered a range of allocation alternatives, with options that would have maintained the current allocations and a variety of options to revise the allocations based on updated data using the same or modified “base years” (the time periods used to set the current allocations). The Council and Board ultimately decided to revise the allocations using the original base years updated with new data. This approach allows for consideration of fishery characteristics in years prior to influence by the commercial/recreational allocations, while also using the best scientific information available to understand the fisheries in those base years.

For all three species, these changes result in a shift in allocation from the commercial to the recreational sector. However, because the summer flounder and black sea bass fisheries are transitioning from landings-based to catch-based allocations, the original and revised allocations for those species are not directly comparable. The approved commercial and recreational sector allocations are shown in Table 1.

TABLE 1—APPROVED COMMERCIAL/RECREATIONAL ALLOCATIONS

Species	Base years	Commercial allocation percentage (%)	Recreational allocation percentage (%)
Summer Flounder	1980–1989	55	45
Scup	1988–1992	65	35
Black Sea Bass	1983–1992	45	55

Revised Framework Provisions

This action would also allow future changes to commercial/recreational allocations, annual quota transfers between sectors, and other measures addressed in Amendment 22 to be made through framework actions.

Comments and Responses

We received 10 comments, from 9 unique commenters, on the NOA and the proposed rule, including comments from Scandinavian Fisheries Incorporated, Viking Yacht Company, and the American Sportfishing Association. One comment was not relevant to the proposed rule and is not discussed further. One comment supported the changes in allocations, and eight opposed the allocation changes. Those opposed to the

allocation changes were split; four did not think any additional quota should be allocated to the recreational fisheries, two felt that the allocations should be more reflective of recent catch proportions (which would result in more allocation shifting to the recreational fishery), and two comments, from one individual, had other concerns about the data used.

Comment 1: Four commenters opposed the change in commercial and recreational allocations. These commenters did not want the commercial allocations to be reduced. One commenter cited high fuel costs and low fish prices and the need to have as much allocation as possible. One commenter suggested that allocations should remain status quo. Other commenters cited the need for more

recreational accountability and reporting standards, which are outside the scope of this action.

Response: Maintaining the status quo allocations between the commercial and recreational sectors would mean that those allocations were not based on the best available science. The MRIP transition and updated time series resulted in significantly different estimates of recreational catch. Updates have also been made to the commercial fisheries data since the original allocations were made. The revised recreational and commercial data have been incorporated into the stock assessments and, as a result, the recent quotas for both the commercial and recreational fisheries. Leaving the allocations unchanged would have created a mismatch between the data

used to set the allocation of quotas and the data used in the stock assessment to set the quotas. Allocations based on data now known to be incorrect would be inconsistent with National Standard 2. Therefore, we approved the allocation changes that the Council and Board recommended to ensure allocations are based on the best scientific information available.

Comment 2: One comment supported the allocation changes, stating that it was a more “accurate reflection of reality.”

Response: We have approved the proposed allocation changes for summer flounder, scup, and black sea bass.

Comment 3: Two commenters opposed the revised allocations. These commenters suggested that the new allocations do not reflect the needs of the recreational fishery and that the base years selected are not fair, equitable, or based on the best available science. One commenter stated that anything less than 50 percent of the summer flounder allocation is not enough for the recreational sector. Both commenters stated that a different approach should have been used and imply that the recreational allocations should have been increased more than they were in this action.

Response: This action increases the recreational allocations for summer flounder, scup, and black sea bass, and reduces the commercial fisheries’ share. The Council and Board considered a range of allocation alternatives for all three species, including options that would have shifted more quota from the commercial sector to the recreational sector. The selected alternative retains the original allocation base years but uses the revised (current) catch or landings data from those years. The Council and Board agreed that the original base years are the most appropriate basis for the allocations, as they are years before the fisheries were notably impacted by management measures. Catch and landings percentages from more recent years are influenced by many management measures, including the allocations and the associated quotas. Basing the allocations on more recent trends in catch or landings also raised concerns about fairness due to differences in how well the commercial and recreational sectors have stayed within their respective quota limits in past years. The Council and Board also agreed that the allocations should be updated to reflect the most recent available data from the base years, especially as other parts of the management process, including the stock assessment and catch accounting systems, now rely on

newer, improved data compared to when the allocations were first established.

Comment 4: One comment stated that we should disapprove the amendment because it was not based on the best scientific information available; specifically stating that MRIP data are not reliable.

Response: The revised MRIP data are the best scientific data available for recreational catch and effort. MRIP, including the recent transition to the Fishing Effort Survey (FES), has undergone a number of peer reviews, including those conducted by the National Academy of Sciences, Engineering and Medicine and the Center for Independent Experts, as well as reviewers selected by the Atlantic States Marine Fisheries Commission and the New England, Mid-Atlantic, South Atlantic, and Gulf of Mexico Fishery Management Councils. The FES was designed to increase response rates, reduce the potential for reporting and recall errors, and achieve a more representative sample than the survey it replaced. With any sampling methodology there is uncertainty, but evidence suggests the FES is a more accurate and efficient way of estimating marine recreational fishing trips and are the best available data we have for estimating recreational catch and effort for these species.

Comment 5: One comment cited the use of landings for black sea bass and summer flounder in the years when complete catch data were not available. This comment suggested that the use of more recent data would have eliminated this issue, allowed for the consideration of discards and, therefore, constitutes the best available science.

Response: Although the allocation percentages under the preferred alternative are based on landings data for two species, they will be applied as catch-based allocations. Reliable dead discard data for the summer flounder and black sea bass during the selected base years are not available. As discussed in the response to Comment 3, the Council and Board decided to maintain the original base years for a number of reasons. More recent years considered by the Council and Board, when discard data are available for both sectors, also correspond to years when allocations, and constraining management measures were in place. Given the influence of these management measures on fishery catches it would be difficult to determine the actual unconstrained needs of each fishery. This is further complicated in years when one sector exceeded its quota and the other did

not. This was a significant point of discussion for the Council and Board, given the concerns about such new allocations “rewarding” recreational sector overages, and whether such a result would be fair and equitable. A recent court case, *Guindon v. Pritzker*, 240 F. Supp. 3d 181, (D.D.C. 2017), involving the reallocation of red snapper between the commercial and recreational fisheries, addresses these concerns. Specifically, the Court’s decision concluded that NMFS failed to demonstrate that the allocations were fair and equitable as required by National Standard 4 where the recreational sector was given an increased allocation of red snapper based on years of recreational quota overages, while the commercial sector’s catch during those years remained within its quota limits and the commercial allocation was reduced.

The Council and Board also agreed that catch-based allocations are preferable to landings-based allocations for all three species because the calculations of sector-specific catch and landings limits allows for separation and accounting of sector-specific discards. Because the management process has moved toward catch accounting and greater consideration of discards since the original allocations were set, changing the allocations to be catch-based simplifies the specifications process and decreases the influence of discards from one sector on the other sector’s Annual Catch Limit (ACL). For example, the original summer flounder allocation was landings-based. This has resulted in each sector receiving a varying percentage of the Acceptable Biological Catch (ABC), depending on annual sector discard trends, meaning that a sector may have received a percentage of the ABC that may have been more, or less than their allocation in a given year.

For the reasons stated about, and in the response to Comment 3, given the data constraints during the selected base years, the use of landings for summer flounder and black sea bass constitutes the best available science, and a reasonable proxy for use in the calculation of the allocation percentages.

Comment 6: One comment in opposition to the amendment questioned when managers would start managing fish for food, not fun. This comment implied that the allocations would benefit one segment of the recreational fishery (private boat anglers) more than shore-side “subsistence” recreational anglers.

Response: This amendment shifts quota from the commercial fishery to

the recreational fishery for all three species. The recreational fishery is inclusive of shore-side anglers, private boat anglers, and for-hire vessels. Increasing recreational allocations are likely to benefit all anglers including shore-side anglers.

Comment 7: One comment stated that the amendment should be disapproved because we did not provide the number of recreational anglers that would benefit from the action. This comment asserts that providing the number of saltwater anglers was required by the 2006 reauthorization of the Magnuson-Stevens Act.

Response: There is no survey or database that counts the exact total number of saltwater anglers. The National Saltwater Angler Registry and State Exemption Program was developed over 10 years ago in a transparent process that involved a national team that included representatives of the States, Councils, Interstate Commissions, and stakeholders (the Registry Team). The program the Registry Team developed is implemented by Federal rule at 50 CFR 500 Subpart P, and was subject to the standard process of Federal rulemaking, including public notice and comment. The final rule (73 FR 79585, December 30, 2008) includes background information that lays out the rationale for the program as designed and how it conforms to the requirements of Section 401(g)(1) of the Magnuson-Stevens Act. Currently, all of the Atlantic coast states are sending NMFS updated lists of their license holders monthly. Therefore, all of those currently-state-licensed anglers are exempt from Federal registration. The purpose of the section of the Magnuson-Stevens Act that established the national saltwater angler registry was not to create a count of all anglers. Rather, it was to establish a list of anglers and associated contact information for use as a sample frame for surveys of fishing activity, as recommended by the National Academies of Science in the 2006 review of the Marine Recreational Fisheries Statistics Survey. The license-holder lists that the states send monthly are sufficient for that purpose and are being used as part of the sample frame for the MRIP Fishing Effort Survey.

Comment 8: One comment suggested that data prior to 1981, as early as 1965, was available and demonstrates a greater historical use by the recreational fisheries and that the original base years do not, and never did, reflect true historical participation by the recreational fisheries.

Response: In 1955, the United States Fish and Wildlife Service (USFWS)

added questions about saltwater angling to their survey of freshwater fishing and hunting in the United States. These surveys, conducted every 5 years, collected data on number of anglers, angler expenditures, and fishing activity level. In 1960, 1965, and 1970, adjunct surveys also collected information about catch, effort and participation. However, when analyzing the results of these surveys, peer reviews found response bias and sampling errors. In addition, because of the long interval between surveys, it was impossible to detect or analyze possible seasonal variation in catch, effort, or participation (sampling error). Due to these issues, NMFS developed its own recreational survey, the Marine Recreational Fishery Statistics Survey (MRFSS). It was not until 1981 that data from this survey were widely available. Therefore, while there may be information on recreational fisheries effort and catch prior to 1981, and prior to the original base years, these data are likely not appropriate to use for developing allocations given the known biases and sampling issues.

Changes From the Proposed Rule

There are no changes to the measures in this final rule from the proposed rule.

Classification

Pursuant to section 304(b)(3) of the 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.

A final regulatory flexibility analysis (FRFA) was prepared for this action. The FRFA incorporates the IRFA and a summary of the analyses completed to support the action. NMFS did not receive any comments that were specifically in response to the IRFA. The FRFA incorporates sections of the preamble (**SUPPLEMENTARY INFORMATION**) and analyses supporting this rulemaking, including the Amendment 22 EA (see **ADDRESSES**). A description of the action, why it is being considered, and the objectives of and the legal basis for this rule are contained in the Amendment 22 EA and preamble to the proposed rule, and are not repeated here.

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

Our responses to all of the comments received on the proposed rule, including those that raised significant issues with the proposed action can be found in the Comments and Responses section of this rule. In the proposed rule, we solicited comments on a revised allocation formula for distributing commercial and recreational summer flounder, scup and black sea bass quota. There were no comments that specifically addressed the IRFA, and no changes from the proposed rule.

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

The entities (*i.e.*, the small and large businesses) that may be affected by this action include fishing operations with Federal moratorium (commercial) permits and/or Federal party/charter permits for summer flounder, scup, and/or black sea bass. Private recreational anglers are not considered "entities" under the Regulatory Flexibility Act (RFA). For RFA purposes only, NMFS established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (50 CFR 200.2). A business primarily engaged in commercial 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.

Vessel ownership data 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 which may be affected by this action.

Commercial and recreational for-hire affiliates potentially regulated by this action include all those with valid commercial fishery permits for summer flounder, scup, and black sea bass and any for-hire affiliates that reported landing summer flounder, scup, or black sea bass in any year between 2018 and 2020, which is the most recent calendar year with complete data. A total of 1,522 affiliates were identified as being potentially regulated by this action, 1,513 (99 percent) of which were

identified as small businesses and 9 (1 percent) of which were identified as large businesses based on their average annual revenues for 2018–2020.

Of the total affiliates potentially regulated by this action, 455 affiliates reported that the majority of their revenues in 2020 came from for-hire fishing. Some of these affiliates may have also participated in commercial fishing. All 455 of these for-hire affiliates were categorized as small businesses based on their average annual revenues for 2018–2020. It is not possible to determine what proportion of their revenues came from fishing for an individual species. Nevertheless, given the popularity of summer flounder, scup, and black sea bass as recreational species, revenues generated from these species are likely important for many of these affiliates at certain times of the year.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of This Proposed Rule

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

Federal Rules Which May Duplicate, Overlap, or Conflict With This Proposed Rule

The action does not duplicate, overlap, or conflict with other Federal rules.

Description of Significant Alternatives to the Rule Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

The approved measures (i.e., the suite of preferred alternatives) includes implementation of a revised commercial/recreational quota allocation system for the summer flounder, scup, and black sea bass fisheries.

When considering the economic impacts of the alternatives under the Regulatory Flexibility Act, consideration should also be given to those non-preferred alternatives which would result in higher net benefits or lower costs to small entities while still achieving the stated objective of the action.

For summer flounder and scup, only the no action alternatives (alternatives 1a–4 and 1b–1, respectively) had greater positive expected impacts for the commercial sector than the preferred alternatives; however, those alternatives had greater negative impacts for the recreational sector than the preferred alternatives. For black sea bass, both the

no action alternative (alternative 1c–4) and alternative 1c–5 were expected to have greater positive impacts for the commercial sector than the preferred alternative. However, as with summer flounder and scup, those alternatives had greater negative impacts for the recreational sector than the preferred alternative. In addition, alternative 1c–5 would have maintained a landings-based allocation for black sea bass, and the Council and Board supported switching to a catch-based allocation. Catch-based allocations were supported because they eliminate the current discard apportionment process and hold each sector accountable for their own discards.

All alternatives that had a greater potential for positive impacts, or a lesser potential for negative impacts, to the recreational sector than the preferred alternatives had a greater magnitude of negative expected impacts for the commercial sector. The no action alternative, for all three species, did not meet the stated objectives given the notable changes in data that have occurred since these allocations were first established, and that leaving the allocations unchanged would not be based on the best scientific information available.

The non-preferred alternatives for phase-in, transfers, and frameworks/addenda are not expected to have notably different socioeconomic impacts than the preferred alternatives.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 10, 2022.

Samuel D. Rauch, III,
Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.

For the reasons set out in the preamble, NMFS amends 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 § 648.100, revise paragraph (a)(1) to read as follows:

§ 648.100 Summer flounder Annual Catch Limit (ACL).

(a) * * *

(1) *Sector allocations.* The commercial and recreational fishing sector ACLs will be established based on the allocations defined in the

Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP).

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■ 3. In § 648.110, revise paragraph (a)(1) to read as follows:

§ 648.110 Summer flounder framework adjustments to management measures.

(a) * * *

(1) *Adjustment process.* The MAFMC shall develop and analyze appropriate management actions over the span of at least two MAFMC meetings. The MAFMC must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting and prior to and at the second MAFMC meeting. The MAFMC’s recommendations on adjustments or additions to management measures must come from one or more of the following categories: Adjustments within existing ABC control rule levels; adjustments to the existing MAFMC risk policy; introduction of new AMs, including sub-ACTs; minimum fish size; maximum fish size; gear restrictions; gear requirements or prohibitions; permitting restrictions; recreational possession limit; recreational seasons; closed areas; commercial seasons; commercial trip limits; commercial quota system including commercial quota allocation procedure and possible quota set asides to mitigate bycatch; recreational harvest limit; specification quota setting process; commercial/recreational allocations; transfer provisions between the commercial and recreational sectors; FMP Monitoring Committee composition and process; description and identification of essential fish habitat (and fishing gear management measures that impact EFH); description and identification of habitat areas of particular concern; regional gear restrictions; regional season restrictions (including option to split seasons); restrictions on vessel size (LOA and GRT) or shaft horsepower; operator permits; changes 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; any other commercial or recreational management measures; any other management measures currently included in the FMP; and set aside quota for scientific research. Issues that require significant departures from previously contemplated measures or that are

otherwise introducing new concepts may require an amendment of the FMP instead of a framework adjustment.

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■ 4. In § 648.120, revise paragraph (a)(1) to read as follows:

§ 648.120 Scup Annual Catch Limit (ACL).

(a) * * *

(1) *Sector allocations.* The commercial and recreational fishing sector ACLs will be based on the allocations defined in the Summer Flounder, Scup, and Black Sea Bass FMP.

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■ 5. In § 648.130, revise paragraph (a)(1) to read as follows:

§ 648.130 Scup framework adjustments to management measures.

(a) * * *

(1) *Adjustment process.* The MAFMC shall develop and analyze appropriate management actions over the span of at least two MAFMC meetings. The MAFMC must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed

adjustment(s) at the first meeting and prior to and at the second MAFMC meeting. The MAFMC's recommendations on adjustments or additions to management measures must come from one or more of the following categories: Adjustments within existing ABC control rules; adjustments to the existing MAFMC risk policy; introduction of new AMs, including sub-ACTs; minimum fish size; maximum fish size; gear restrictions; gear restricted areas; gear requirements or prohibitions; permitting restrictions; recreational possession limits; recreational seasons; closed areas; commercial seasons; commercial trip limits; commercial quota system including commercial quota allocation procedure and possible quota set asides to mitigate bycatch; recreational harvest limits; annual specification quota setting process; commercial/recreational allocations; transfer provisions between the commercial and recreational sectors; FMP Monitoring Committee composition and process; description and identification of EFH (and fishing gear management measures that impact EFH); description and identification of habitat areas of particular concern; regional gear restrictions; regional

season restrictions (including option to split seasons); restrictions on vessel size (LOA and GRT) or shaft horsepower; operator permits; changes 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; any other commercial or recreational management measures; any other management measures currently included in the FMP; and set aside quota for scientific research.

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■ 6. In § 648.140, revise paragraph (a)(1) to read as follows:

§ 648.140 Black sea bass Annual Catch Limit (ACL).

(a) * * *

(1) *Sector allocations.* The commercial and recreational fishing sector ACLs will be based on the allocations defined in the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan.

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[FR Doc. 2022-24997 Filed 11-16-22; 8:45 am]

BILLING CODE 3510-22-P