

scup as a result of updated landings information for 2003. The recreational measures for black sea bass contained in this final rule are unchanged from those published in the proposed rule. For summer flounder, this final rule

implements conservation equivalency, as the process was described in the proposed rule. The management measures will vary according to the state of landing (see Table 2). All minimum fish sizes discussed below are

total length (TL) 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.

TABLE 1—2004 RECREATIONAL MEASURES

Species	Minimum Size (total length)	Possession Limit	Open Season
Summer Flounder .....	Varies according to state of landing		
Scup .....	10 inches (25.4 cm) .....	50 fish .....	January 1 through last day of February, and September 7 through November 30.
Black Sea Bass .....	12 inches (30.5 cm) .....	25 fish .....	January 1 through September 7, and September 22 through November 30.

TABLE 2—2004 STATE RECREATIONAL MANAGEMENT MEASURES FOR SUMMER FLOUNDER

State	Minimum Size (inches)	Minimum Size (cm)	Possession Limit (number of fish)	Open Season
MA .....	16.5 .....	41.9 .....	7 .....	Year-Round.
RI .....	17.5 .....	44.5 .....	7 .....	April 1 through December 31.
CT .....	17 .....	43.2 .....	6 .....	Year-Round.
NY* .....	18 .....	45.7 .....	1 .....	Year-Round.
NJ .....	16.5 .....	41.9 .....	8 .....	May 8 through October 11.
DE .....	17.5 .....	44.5 .....	4 .....	Year-Round.
MD .....	16 .....	40.6 .....	3 .....	Year-Round.
VA .....	17 .....	43.2 .....	6 .....	March 29 through December 31.
NC .....	14 .....	35.6 .....	8 .....	Year-Round.

\*Under the provisions of Framework Adjustment 2 to the FMP, because NY's conservation equivalency proposal was disapproved by the Atlantic States Marine Fisheries Commission (Commission), NY is required to implement the precautionary default measures.

### Changes from the Proposed Rule

In the proposed rule published on April 14, 2004 (69 FR 19805), NMFS indicated that a 58-percent reduction in scup landings would be necessary to achieve the target, and proposed scup open seasons of January 1 through February 29, and September 8 through November 30. Since publication of the proposed rule, and based on updated landings information for 2003 (9.3 million lb (4,233 mt) rather than 9.6 million lb (4,354 mt)), NMFS has determined that the required reduction in landings is 57 percent. The revised information allows for the extension of the open season by one day in September. Therefore, the second open season would begin September 7 rather than September 8. Section 648.122(g) is amended accordingly.

At the time the proposed rule was published, it was not known which states would have their conservation equivalency proposals approved by the Commission. The Commission approved the proposals of MA, RI, CT, NJ, DE, MD, VA, and NC. Based on the recommendation of the Commission, the

Regional Administrator finds that the recreational fishing measures proposed to be implemented by these states for 2004 are the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. According to the regulation at § 648.107(a)(1), vessels subject to the recreational fishing measures of this part landing summer flounder in one of these states with an approved conservation equivalency program shall not be subject to the more restrictive Federal measures, and shall instead be subject to the recreational fishing measures implemented by the state in which they land. Section 648.107(a) is amended accordingly.

Based on the recommendation of the Commission, the Regional Administrator finds that the recreational fishing measures proposed to be implemented by NY for 2004 are not the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. Therefore, according to § 648.107(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 in this part, that land in NY are subject to the following precautionary default measures: An open season January 1 through December 31; a minimum size of 18 inches (45.7 cm) total length; and a possession limit of one fish.

### Comments and Responses

Six comment letters were received, via e-mail, regarding the proposed recreational management measures.

*Comment 1:* Three of the comment letters indicated opposition to any change to the regulations that would result in more restrictive measures for the subject fisheries, especially summer flounder.

*Response:* Through this final rule, NMFS approves conservation equivalency for the recreational summer flounder. The Commission's conservation equivalency guidelines require each state, using state-specific equivalency tables, to determine and implement an appropriate possession limit, minimum fish size, and closed