

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 231215–0305]

RIN 0648–BM59

Fisheries of the Northeastern United States; 2024 and Projected 2025 Specifications for the Summer Flounder and Scup Fisheries, and 2024 Specifications for the Black Sea Bass Fishery

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

ACTION: Final rule.

SUMMARY: NMFS announces 2024 specifications for the summer flounder, scup, and black sea bass fisheries, and projected 2025 specifications for summer flounder and scup. The implementing regulations for the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan require us to publish specifications for the upcoming fishing year for each of these species and to respond to public comments received during the public comment period. This action is intended to inform the public of the specifications for the start of the 2024 fishing year for summer flounder, scup, and black sea bass. A Supplemental Information Report (SIR) was prepared for the 2024 black sea bass

specifications. An Environmental Assessment (EA) was prepared for the 2024 and projected 2025 summer flounder and scup specifications.

DATES: This rule is effective January 1, 2024.

ADDRESSES: Copies of the SIR and EA are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. The SIR and EA are also accessible via the internet at <https://www.mafmc.org/supporting-documents>.

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Policy Analyst, (978) 281–9116, or emily.keiley@noaa.gov.

SUPPLEMENTARY INFORMATION:

General 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 Council’s process for establishing specifications. The FMP requires NMFS to set an acceptable biological catch (ABC), annual catch limit (ACL), annual catch targets (ACT), commercial quotas, recreational harvest limits (RHL), and other management measures, for 1 to 3 years at a time. This action establishes the 2024 ABCs, as well as the

recreational and commercial ACLs, ACTs, commercial quotas, and RHLs for all three species, consistent with the recommendations made by the Commission’s Summer Flounder, Scup, and Black Sea Bass Board (Board) and the Council at their joint August 2023 meeting. This action also sets projected 2025 ABCs and corresponding specifications for summer flounder and scup.

Final 2024 and Projected 2025 Specifications

Summer Flounder Specifications

This action approves the Council- and Board-recommended 2024 and projected 2025 summer flounder specifications as shown in table 1. The recommendations are based on the averaged 2024–2025 ABCs recommended by the Council’s Science and Statistical Committee (SSC). This approach allows for constant catch and landings limits across both years. The ABCs are based on the overfishing limit (OFL) and the Council’s risk policy, resulting in a 32- to 38-percent probability of overfishing. For summer flounder, this results in a 42-percent decrease in the recommended 2024 and 2025 ABC relative to the 2023 ABC. The 2024–2025 commercial quota represents a 42-percent decrease compared to the 2023 quota, and an approximately 30-percent reduction compared to 2022 reported landings. The 2024–2025 RHL is a 40-percent decrease compared to the 2023 RHL.

TABLE 1—SUMMARY OF FINAL 2024 AND PROJECTED 2025 SUMMER FLOUNDER FISHERY SPECIFICATIONS

Specifications	million pounds (lb)	metric tons (mt)
OFL	22.98 (2024) 24.97 (2025)	10,422 (2024) 11,325 (2025)
ABC	19.32	8,761
Commercial ACL = ACT	10.62	4,819
Commercial Quota	8.79	3,987
Recreational ACL = ACT	8.69	3,942
Recreational Harvest Limit	6.35	2,879

The final state summer flounder commercial quotas take into account any averages that occurred during the

2022 fishing year and the current fishing year, through October 31, 2023, as described at 50 CFR 648.103(b)(2). The

final 2024 state-by-state summer flounder commercial quotas are provided in table 2.

TABLE 2—FINAL 2024 SUMMER FLOUNDER STATE-BY-STATE QUOTAS

State	Final 2024 quotas (lb)	Final 2024 quotas (mt)
ME	4,180	1.90
NH	40	0.02
MA	599,507	271.93
RI	1,378,507	625.28
CT	198,394	89.99
NY	672,157	304.89

TABLE 2—FINAL 2024 SUMMER FLOUNDER STATE-BY-STATE QUOTAS—Continued

State	Final 2024 quotas (lb)	Final 2024 quotas (mt)
NJ	1,470,098	666.83
DE	1,564	0.71
MD	179,233	81.30
VA	1,873,707	849.90
NC	2,412,443	1,094.27
Total	8,789,830	3,987.02

This action makes no changes to the current commercial management measures, including the minimum fish size (14-inch (36-centimeter (cm)) total length), gear requirements, and possession limits. Changes to 2024 recreational management measures (bag limits, size limits, and seasons) will be considered through a separate action.

Black Sea Bass Specifications

This action approves the Council- and Board-recommended 2024 black sea bass specifications as shown in table 3. No updated stock assessment information is available for black sea bass this year; therefore, the SSC decided to set the 2024 ABC equal to the 2023 ABC. The Council and Board made no changes to the ACLs or ACTs compared to 2023. They approved a

2024 commercial quota of 6 million lb (2,721 mt) (25-percent increase from 2023) and a 2024 RHL of 6.27 million lb (2,845 mt) (5-percent decrease from 2023). While these values are based on the same methodology used to set the 2023 measures, updated dead-discard projections for each sector led to a change in the quota and RHL. An updated management track stock assessment is anticipated to be available in 2024 for setting future specifications.

TABLE 3—FINAL 2024 BLACK SEA BASS CATCH AND LANDINGS LIMITS

Specifications	2024	
	million lb	mt
OFL	17.01	7,716
ABC	16.66	7,557
Expected Commercial Discards	1.50	680
Expected Recreational Discards	2.89	1,311
Commercial ACL = ACT	7.50	3,401
Commercial Quota	6.00	2,721
Recreational ACL = ACT	9.16	4,156
RHL	6.27	2,845

This action implements no changes to the 2024 commercial management measures for black sea bass, including the commercial minimum fish size (11-inch (27.94-cm) total length) and gear requirements.

On August 2, 2023, NMFS partially approved Amendment 23 to the Summer Flounder, Scup, and Black Sea Bass FMP. The approved measures change the Federal coastwide commercial in-season accountability measure such that the commercial fishery will now close when the quota plus an additional buffer of up to 5-percent is projected to be landed. The intent of this buffer is to minimize negative economic impacts when the coastwide quota is reached before all

states have fully harvested their allocations due to overages in individual states. Each year, through the specification process, the Council and Board will recommend a buffer from 0- to 5-percent. For 2024, the Council and Board have recommended a 5-percent commercial in-season closure buffer. The final rule implementing Amendment 23 has not been published, so the buffer cannot be implemented through this action. Implementation of the 5-percent buffer recommended for 2024 will be considered through the Amendment 23 final rule.

Scup Specifications

This action approves the Council- and Board-recommended 2024 scup

specifications as shown in table 4. The SSC-recommended 2024–2025 ABCs are based on the OFL and the Council’s risk policy for a stock above 1.5 times the biomass target, with an associated 49-percent probability of overfishing. To ensure that the probability of overfishing remained below 50-percent in each year, the SSC recommended annually varying ABCs for 2024 and 2025. This results in a 2024 ABC that is 49-percent higher than the 2023 ABC; and a projected 2025 ABC that is 35-percent higher than the 2023 ABC. The scup commercial quota for 2024 is 52-percent higher than the 2023 commercial quota. The 2024 RHL is 43-percent higher than the 2023 RHL.

TABLE 4—2024–2025 SCUP CATCH AND LANDING LIMITS *

Specifications	2024		2025	
	million lb	mt	million lb	mt
OFL	44.74	20,295	40.58	18,393
ABC	43.82	19,876	39.74	18,028

TABLE 4—2024–2025 SCUP CATCH AND LANDING LIMITS *—Continued

Specifications	2024		2025	
	million lb	mt	million lb	mt
Expected Commercial Discards	7.33	3,327	7.04	3,192
Expected Recreational Discards	2.15	977	2.07	937
Commercial ACL = ACT	28.48	12,919	25.83	11,718
Commercial Quota	21.15	9,592	18.80	8,526
Recreational ACL = ACT	15.34	6,957	13.91	6,310
RHL	13.18	5,980	11.84	5,373

* Some of the values in table 4 have been updated since the proposed rule (88 FR 80263, November 17, 2023) due to a minor calculation error.

The commercial scup quota is divided into three commercial fishery quota periods, as outlined in table 5.

TABLE 5—COMMERCIAL SCUP QUOTA ALLOCATIONS FOR 2024 BY QUOTA PERIOD

Quota period	Percent Share	lb	mt
Winter I	45.11	9,539,294	4,327
Summer	38.95	8,236,655	3,736
Winter II	15.94	3,370,790	1,529
Total	100.0	21,146,740	9,592

The current quota period possession limits are not changed by this action and are outlined in table 6.

TABLE 6—COMMERCIAL SCUP POSSESSION LIMITS BY QUOTA PERIOD

Quota period	Percent share	Federal possession limits (per trip)	
		lb	kg
Winter I	45.11	50,000	22,680
Summer	38.95	N/A	N/A
Winter II	15.94	12,000	5,443
Total	100.0	N/A	N/A

The Winter I scup commercial possession limit will drop to 1,000 lb (454 kg) when 80-percent of that period’s allocation is landed. If the Winter I quota is not fully harvested, the

remaining quota is transferred to Winter II. The Winter II possession limit may be adjusted (in association with a transfer of unused Winter I quota to the Winter II period) via notification in the **Federal**

Register. The regulations specify that the Winter II possession limit increases consistent with the increase in the quota, as described in table 7.

TABLE 7—POTENTIAL INCREASE IN WINTER II POSSESSION LIMITS BASED ON THE AMOUNT OF UNUSED SCUP ROLLED OVER FROM WINTER I TO WINTER II

Initial Winter II possession limit		Rollover from Winter I to Winter II		Increase in initial Winter II possession limit		Final Winter II possession limit after rollover from Winter I to Winter II	
lb	kg	lb	kg	lb	kg	lb	kg
12,000	5,443	0–499,999	0–226,796	0	0	12,000	5,443
12,000	5,443	500,000–999,999.	226,796–453,592.	1,500	680	13,500	6,123
12,000	5,443	1,000,000–1,499,999.	453,592–680,388.	3,000	1,361	15,000	6,804
12,000	5,443	1,500,000–1,999,999.	680,389–907,184.	4,500	2,041	16,500	7,484

TABLE 7—POTENTIAL INCREASE IN WINTER II POSSESSION LIMITS BASED ON THE AMOUNT OF UNUSED SCUP ROLLED OVER FROM WINTER I TO WINTER II—Continued

Initial Winter II possession limit		Rollover from Winter I to Winter II		Increase in initial Winter II possession limit		Final Winter II possession limit after rollover from Winter I to Winter II	
lb	kg	lb	kg	lb	kg	lb	kg
12,000	5,443	*2,000,000– 2,500,000.	907,185– 1,133,981.	6,000	2,722	18,000	8,165

* This process of increasing the possession limit in 1,500 lb (680 kg) increments would continue past 2,500,000 lb (1,122,981 kg), but we end here for the purpose of this example.

This action makes no changes to the 2024 commercial management measures for scup, including the minimum fish size (9-inch (22.9-cm) total length), gear requirements, and quota period possession limits.

Federal Recreational Scup Closure

Through this action, we are removing the January 1–April 30 Federal recreational scup closure. Because of the timing of the recreational management measures discussions and rulemaking, it would not be possible to remove this closure prior to the January 1, 2024, start date of the closure outside of this rulemaking. At the December 2023 meeting, the Council and Board approved a 10-percent reduction in recreational scup harvest in 2024 and 2025. State waters measures, in addition to the 40-fish possession limit and 10-inch minimum size in Federal waters, will be developed to achieve the full reduction required. The Federal closure will not be needed to achieve the required reduction. Additionally, preliminary data on recreational scup harvest indicate that 2023 harvest is trending lower than 2022. Estimated scup harvest in waves 1 to 4 is 9.46 million lb (4,291 mt), which is 31-percent lower than scup harvest during the same time period in 2022. For these reasons, we have determined that the January 1–April 30 Federal recreational fishery closure can be removed through this action.

Comments and Responses

We received two comments on the proposed rule (88 FR 80263, November 17, 2023). One comment was not applicable to the proposed measures.

Comment 1: One comment supported the removal of the January–April 30 Federal recreational scup closure, citing a preference for changes in the possession limit or size limit instead of closed seasons.

Response: This action removes the Federal recreational scup closure.

Changes From the Proposed Rule

Table 4 in the proposed rule has been updated as several of the values were incorrect. The corrected numbers are shown in table 4 of this rule.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this final rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Assistant Administrator for Fisheries finds that the need to implement these measures in a timely manner constitutes good cause, under the authority contained in 5 U.S.C. 553(d)(3), to waive the 30-day delay in effective date of this action. This action implements 2024 specifications for the summer flounder, scup, and black sea bass fisheries. These specifications should be effective by the start of the fishing year on January 1, 2024, and must be published on or before December 31, 2023.

This rule is being issued at the earliest possible date. Preparation of the final rule is dependent on the analysis of commercial summer flounder landings for the prior fishing year (2022) and the current fishing year through October 31, 2023, to determine whether any overages have occurred and adjustments are needed to the final state quotas. This process is codified in the summer flounder regulations and, therefore, cannot be performed earlier. A proposed rule was published on November 17, 2023, with a public comment period through December 2, 2023. This final rule is being published as soon as possible. Annual publication of the

summer flounder quotas prior to the start of the fishing year, by December 31, is required by Court Order in *North Carolina Fisheries Association v. Daley*.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

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

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

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 15, 2023.

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. Revise § 648.127 to read as follows:

§ 648.127 Scup recreational fishing season.

Fishermen and vessels that are not eligible for a scup moratorium permit under § 648.4(a)(6), may possess scup from January 1 through December 31, subject to the possession limit specified in § 648.128(a). The recreational fishing

season may be adjusted pursuant to the procedures in § 648.122. Should the recreational fishing season be modified, non-federally permitted scup vessels abiding by state regulations may transit with scup harvested from state waters

on board through the Block Island Sound Transit Area following the provisions outlined in § 648.131.

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