

consistency with respect to achieving the coastwide recreational harvest limit. After the Technical Committee evaluation, the Board met on February 25, 2003, to approve or disapprove each state's proposal.

The Commission invited public participation in its review process by holding public meetings and offering the public the opportunity to comment on the state proposals. During the comment period, the Commission will notify NMFS as to which state proposals have been approved or disapproved. NMFS will provide this information in the final rule, establishing the 2003 recreational measures for these fisheries.

If, at the final rule stage, the Commission recommends, and NMFS accepts, conservation equivalency, NMFS would waive the Federal recreational measures for federally permitted charter/party permit holders and recreational vessels fishing for summer flounder in the EEZ. Those vessels would be required to abide by the requirements enacted by the state in which they land summer flounder. States that do not submit proposals, or for which proposals were disapproved by the Commission, would be required by the Commission to adopt the precautionary default measures. States assigned the precautionary default measures would be allowed to resubmit revised management measures. The Commission would notify NMFS of any resubmitted proposals that were approved after publication of the final rule implementing the recreational specifications. NMFS then would publish a notice in the **Federal Register** to notify the public of any changes in the state's management measures.

Scup

The 2003 scup recreational harvest limit is 4.01 million lb (1,819 mt), 48 percent more than the recreational harvest limit for 2002. The 2002 recreational scup landings are projected to have been 3.76 million lb (1,706 mt). As a result of the increase in the harvest limit, recreational scup landings can increase by 7 percent in 2003, relative to the projected landings for 2002. Although it appears that constraints on the fishery could be relaxed, any relaxation should be balanced with the consideration of stock status. The most recent assessment indicates that the scup biomass increased in 2002 and is likely to increase again in 2003. Survey information indicates that regulations may have protected a large 1997 year class and also indicate that strong year classes were produced in 1999 through 2001. If the 1999, 2000, and 2001 year classes are large, and mortality of

undersized fish is reduced, substantial biomass could be added to the stock by 2003 and availability of legal-sized fish could increase. Because fewer fish were landed by in the recreational fishery in 2002 than in 2001, the Council decided that the 2001 landings should be used as a basis to determine the appropriate possession and size limits to constrain the 2003 landings to the recreational harvest limit. Additionally, to evaluate properly the required coastwide measures, it is necessary first to extrapolate the 2001 landings to estimate the level of landings that would have resulted if the states had not implemented any scup fishery closures. As a result, to achieve the 2003 harvest limit, a 27-percent reduction from the extrapolated 2001 level of landings is necessary.

The 2003 scup recreational fishery will be managed under separate regulations for state and Federal waters; the Federal measures would apply only to party/charter boats with Federal permits. In Federal waters, the Council recommended coastwide management measures of a 10-inch (25.4-cm) minimum fish size, a 50-fish possession limit, and open seasons of January 1 through February 28, and July 1 through November 30. The Council has estimated that these measures would reduce recreational scup landings (from the extrapolated 2001 level) by 27 percent, assuming that regulations will be implemented by all of the states. For comparative purposes, the current (status quo) scup recreational measures in the EEZ are a 10-inch (25.4-cm) minimum fish size, a 20-fish possession limit and open seasons of January 1 through February 28, and July 1 through October 2. NMFS has reviewed the Council's analyses of these measures and is proposing the Council's preferred alternative without modification.

The Board postponed making a final decision on state measures for scup at its December 2002 meeting and advised its staff to prepare an addendum to the Commission's Interstate FMP that would provide the states with a mechanism for effectively managing their 2003 recreational scup fisheries on a state-by-state basis. A prior addendum that addressed the 2002 recreational fishery expired at the end of 2002. On February 25, 2003, the Board approved Addendum IX to the Commission's Interstate FMP (Addendum IX), which allows states from Massachusetts (MA) through New York (NY) to develop either regional or state-specific management measures. For New Jersey (NJ), which has limited recreational scup landings data, the Board approved a 10-inch (25.4-cm) minimum size, a

50-fish possession limit, and an open season of July 1 through December 31. Due to low scup landings in the southern range of the species, the Board approved a 10-inch (25.4-cm) minimum fish size, a 50-fish possession limit, and no closed season for DE, Maryland (MD), VA, and NC. The Monitoring Committee has recommended that, should the Board implement conservation equivalency for the 2003 scup fishery, states from MA through NY adopt a 10-inch minimum fish size and a 50-fish possession limit, and achieve the necessary reductions through state-specific season modification. Although MA is permitted a 22-percent increase in landings, it has chosen to maintain its 2002 regulations for the 2003 season. Because the Federal FMP does not contain provisions for conservation equivalency, and states may adopt their own unique measures under Addendum IX, it is likely that state and Federal recreational scup measures will differ for the 2003 season.

Black Sea Bass

The 2003 black sea bass recreational harvest limit is 3.43 million lb (1,557 mt), the same as that implemented in 2002. However, the 2002 recreational black sea bass landings are projected to be 4.4 million lb (1,996 mt). After extrapolating the 2002 landings to estimate the level of landings that would have been expected if the states had not implemented any seasonal black sea bass fishery closures, the Council determined that the extrapolated 2002 landings would have to be reduced by 27 percent to achieve the 2003 harvest limit.

The Council and Board recommended the following measures for the 2003 coastwide recreational black sea bass fishery: A 12-inch minimum fish size, a 25-fish possession limit, and open seasons of January 1 through September 1, and September 16 through November 30. These measures are expected to provide a 27-percent reduction in recreational black sea bass landings (from the 2002 level). For comparative purposes, the current (status quo) black sea bass regulations include an 11.5-inch (29.21-cm) minimum fish size, a 25-fish possession limit, and no closed season. NMFS has reviewed the Council's analyses of these measures and is proposing the Council's preferred alternative without modification.

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Council prepared an IRFA that describes the economic impact this