

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 021122284-2323-02; I.D. 111703A]

**Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Adjustments to the 2003 Scup and Black Sea Bass Total Allowable Landings (TAL)**

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

**ACTION:** Notice of Restoration to the 2003 Scup and Black Sea Bass TAL.

**SUMMARY:** NMFS restores 18,665 lb (8,466 kg) of unused research set-aside (RSA) to the 2003 scup TAL and 25,000 lb (11,340 kg) of unused RSA to the black sea bass TAL, and makes corresponding adjustments to the 2003 scup Winter II commercial quota, the 2003 scup recreational harvest limit, the 2003 black sea bass coastwide commercial quota, and the 2003 black sea bass recreational harvest limit. This action complies with Framework Adjustment 1 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP), which implemented procedures for setting aside up to 3 percent of the annual TAL to fund research activities for summer flounder, scup, and black sea bass. Framework Adjustment 1 also specified that, if a research proposal is disapproved by NMFS or the NOAA Grants Office, the research set-aside for that proposal would be reallocated (i.e., added back) into the TAL. In October 2003, NMFS identified two RSA projects that had significant quantities of allocation remaining that were not going to be used. These remaining amounts are being returned to their respective quotas to provide fishermen the opportunity to harvest the available quota.

**DATES:** Effective November 28, 2003.

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**SUPPLEMENTARY INFORMATION:****Background**

NMFS published a final rule in the *Federal Register* on August 10, 2001 (66 FR 42156), implementing Framework

Adjustment 1 to the FMP. Framework Adjustment 1 implemented procedures for setting aside up to 3 percent of the annual TAL to fund research activities for summer flounder, scup, and black sea bass. Framework Adjustment 1 also specified that, if a proposal is disapproved by NMFS or the NOAA Grants Office, the research set-aside for that proposal would be reallocated (i.e., added back) into the TAL.

On January 2, 2003, NMFS published a final rule in the *Federal Register* (68 FR 60) announcing specifications for the 2003 summer flounder, scup, and black sea bass fisheries. An initial TAL of 16,500,000 lb (7,484,274 kg) was established for scup and an initial TAL of 6,800,000 lb (3,084,428 kg) was established for black sea bass. Three research projects utilizing the scup RSA quota and three research projects utilizing the black sea bass RSA quota were recommended for approval by a review committee. As a result, 66,650 lb (30,232 kg) of scup quota and 67,676 lb (30,697 kg) of black sea bass quota were set aside for these research projects. Therefore, TAL of 16,433,350 lb (7,454,042 kg) for scup and 6,732,324 (3,053,731 kg) for black sea bass were implemented for 2003 through the final rule. Under procedures in the FMP, the resulting scup overall TAL is allocated 78 percent to the commercial sector and 22 percent to the recreational sector, while the resulting black sea bass overall TAL is allocated 49 percent to the commercial sector and 51 percent to the recreational sector. This resulted in a scup 2003 commercial quota of 12,419,629 lb (5,633,449 kg), a scup 2003 recreational harvest limit of 4,013,721 lb (1,820,593 kg), a black sea bass 2003 commercial quota of 3,298,838 lb (1,496,328 kg), and a black sea bass 2003 recreational harvest limit of 3,433,485 lb (1,557,403 kg). Overages from 2002 were then deducted from the commercial quotas, and the 2003 adjusted quotas became 12,016,875 lb (5,450,763 kg) for scup and 3,002,034 lb (1,361,700 kg) for black sea bass.

NMFS further adjusted the scup and black sea bass commercial quotas on March 3, 2003 (68 FR 9905). This adjustment set the scup 2003 commercial quota (less the 2003 RSA) at 12,104,063 lb (5,490,311 kg), and the black sea bass 2003 commercial quota (less the 2003 RSA) at 3,012,295 lb (1,366,354 kg). The final rule implementing Amendment 13 to the FMP was published on March 4, 2003 (68 FR 10181). This amendment established an annual coastwide quota for black sea bass, which took the place of the quarterly system used previously.

The black sea bass 2003 commercial quota remained unchanged.

In October 2003, NMFS identified two RSA projects that had significant quantities of allocation remaining when the projects were concluded. These remaining amounts are being returned to their respective quotas to provide fishermen the opportunity to harvest the available quota. One RSA project was allocated 20,000 lb (9,072 kg) of scup RSA, and had 18,665 lb (8,466 kg) remaining at the end of the project. This amount is being returned to the 2003 scup TAL. Another RSA project was allocated 25,000 lb (11,340 kg) of black sea bass RSA. This project was unable to be completed. The entire allocation is being returned to the 2003 black sea bass TAL.

This action restores 18,665 lb (8,466 kg) to the overall 2003 scup TAL. The resulting 2003 scup TAL is 16,452,015 lb (7,462,508 kg). Of the 18,665 lb (8,466 kg) being restored, 14,559 lb (6,604 kg) is added to the commercial quota and 4,106 lb (1,862 kg) is added to the recreational harvest limit. The resulting scup commercial quota is 12,118,622 (5,496,914 kg) and the recreational harvest limit is 4,017,827 lb (1,822,456 kg). This action also restores 25,000 lb (11,340 kg) to the overall 2003 black sea bass TAL. The resulting 2003 black sea bass TAL is 6,757,324 lb (3,065,071 kg). Of the 25,000 lb (11,340 kg) being restored, 12,250 lb (5,557 kg) is added to the commercial quota and 12,750 lb (5,783 kg) is added to the recreational harvest limit. The resulting black sea bass commercial quota is 3,024,545 lb (1,371,911 kg) and the recreational harvest limit is 3,446,235 lb (1,563,186 kg).

On November 3, 2003 (68 FR 62250), the scup 2003 Winter II period quota was revised to 3,852,739 lb (1,747,573 kg). Because the Winter I and Summer periods of the 2003 scup commercial fishing year have already closed, the entire portion of the additional commercial quota (14,559 lb (6,604 kg)) is being added to the Winter II period. The resulting adjusted 2003 scup commercial quota for the Winter II period is 3,867,298 lb (1,754,177 kg).

Although 4,106 lb (1,862 kg) of scup and 12,750 lb (5,783 kg) of black sea bass are being restored to their respective recreational harvest limits, this action does not alter the existing recreational management measures that have been established to ensure that the recreational harvest limit is not exceeded. For scup, a minimum fish size of 10 inches (25.4 cm), a 50-fish recreational possession limit, and an open season of January 1 through February 28, and July 1 through

November 30, will remain in effect. For black sea bass, a minimum fish size of 12 inches (30.5 cm), a 25-fish recreational possession limit, and an open season of January 1 through September 1, and September 16 through November 30, will remain in effect.

**Classification**

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: November 26, 2003.

**Bruce C. Morehead,**

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