

<sup>5</sup>Risks were estimated using Monte Carlo simulation runs; at the 95th percentile level, calculated risks were found to be below this level 95% of the time.

<sup>6</sup>The lower risk was obtained by using the one detected value (a "J-value" below the quantitation limit) as one of the two high-end parameters.

<sup>7</sup>The lower risk was obtained by using only the J-value in the Monte Carlo simulation runs.

TABLE III.—NON-GROUNDWATER RISKS FOR PETROLEUM RESIDUALS IN LAND TREATMENT UNITS

Individual waste streams	On-site land treatment unit high-end total carcinogen risk				Off-site land treatment unit high-end total carcinogen risk			
	Home gardener	Adult resident	Subsistence farmer	Subsistence fisher	Home gardener	Adult resident	Subsistence farmer	Subsistence fisher
Clarified Slurry Oil Tank Sediment ....	1E-04	2E-05	2E-04	4E-05	3E-05	1E-05	2E-05	3E-05
Crude Oil Tank Sediment .....	3E-07	1E-07	4E-07	2E-07	2E-07	8E-08	2E-07	1E-07
Unleaded Gasoline Tank Sediment ..	4E-07	9E-08	2E-07	1E-07	3E-07	9E-08	4E-07	1E-07
Sulfur Complex Sludge .....	1E-07	3E-08	6E-08	3E-08	5E-08	1E-08	4E-08	1E-08
HF Alkylation Sludge .....	3E-08	7E-09	1E-08	8E-09	3E-08	7E-09	4E-08	9E-09
Sulfuric Acid Alkylation Sludge .....	2E-09	1E-09	3E-10	2E-09	5E-10	3E-10	3E-10	7E-10
Off-Spec Product & Fines .....	6E-08	3E-08	7E-08	4E-08	6E-08	2E-08	9E-08	4E-08

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 268

[EPA-F-97-PH3A-FFFFF; FRL-5808-4]

RIN 2050 AE05

### Land Disposal Restrictions—Phase IV: Treatment Standards for Characteristic Metal Wastes; Notice of Data Availability

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Extension of the comment period.

**SUMMARY:** EPA has received requests to extend the comment period on the notice of data availability (NODA) published in the **Federal Register** on March 5, 1997 (62 FR 10004). The NODA solicited public comments on studies, and the results of a Peer Review of those studies, pertaining to whether the addition of iron filings (and iron dust) to lead-contaminated spent foundry sand is a means of diluting the waste impermissibly rather than treating it to conform with the requirements of the LDR rules. The NODA addressed whether this practice stabilizes (or otherwise treats) lead, the chief hazardous constituent found in the spent sand, so that the lead will not migrate through the environment when the spent sand is land disposed. This document extends the comment period for the NODA for 30 days.

**DATES:** Comments are due by May 8, 1997.

**ADDRESSES:** To submit comments, the public must send an original and two

copies to Docket Number F-97-PH3A-FFFFF, located at the RCRA Docket. The mailing address is: RCRA Information Center, U.S. Environmental Protection Agency (5305W), 401 M. Street, SW, Washington, DC 20460. RCRA Information Center is located at 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RCRA Information Center is open for public inspection and copying of supporting information for RCRA rules from 9:00 a.m. to 4:00 p.m. Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (703) 603-9230. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost \$0.15 per page.

**FOR FURTHER INFORMATION CONTACT:** For general information or to order paper copies of this **Federal Register** document, call the RCRA Hotline. Callers within the Washington, Metropolitan Area must dial 703-412-9810 or TDD 703-412-3323 (hearing impaired). Long-distance callers may call 1-800-424-9346 or TDD 1-800-553-7672. The RCRA Hotline is open Monday-Friday, 9:00 a.m. to 6:00 p.m., Eastern Standard Time. For information on this notice, contact Mary Cunningham at (703) 308-8453, John Austin at (703) 308-0436 or Rhonda Craig at (703) 308-8771, Office of Solid Waste, 401 M Street, SW, Washington, DC 20460.

### List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

Dated: April 3, 1997.

**Elizabeth A. Cotsworth,**

*Acting Director, Office of Solid Waste.*

[FR Doc. 97-9093 Filed 4-7-97; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

[Docket No. 970318057-7057-01; I.D. 022097C]

RIN 0648-AJ42

### Fisheries of the Northeastern United States; Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Recreational Measures for the 1997 Summer Flounder Fishery

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

**ACTION:** Proposed rule, request for comments.

**SUMMARY:** NMFS issues this proposed rule to amend the regulations implementing the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP). This rule proposes a possession limit of 10 fish per person and a minimum fish size of 14.5 inches (36.8 cm) for the 1997 summer flounder recreational fishery. The intent of this rule is to comply with implementing regulations for the fishery that require NMFS to publish measures for the current fishing year that will prevent overfishing of the resource.

**DATES:** Public comments must be received on or before May 8, 1997.

**ADDRESSES:** Copies of the Environmental Assessment prepared for the 1997 summer flounder specifications and supporting documents used by the Monitoring Committee are available from: Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 S. New Street, Dover, DE 19901-6790. Comments should be sent to: Regional Administrator, NMFS, One Blackburn Drive, Gloucester, MA 01930. Please mark the outside of the envelope "Comments on the Recreational Fishing Measures for Summer Flounder."

**FOR FURTHER INFORMATION CONTACT:** Regina L. Spallone, Fishery Policy Analyst, (508)281-9221.

**SUPPLEMENTARY INFORMATION:**

The FMP was developed jointly by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission), in consultation with the New England and South Atlantic Fishery Management Councils. Implementing regulations for the fishery are found at 50 CFR part 648.

Section 648.100 outlines the process for determining annual commercial and recreational catch quotas and other restrictions for the summer flounder fishery. The Summer Flounder Monitoring Committee (Committee), made up of representatives from the Commission, the Council, the New England Fishery Management Council, and NMFS, is required to review, on an annual basis, scientific and other relevant information and to recommend a quota and other restrictions necessary to achieve a fishing mortality rate (F) of 0.53 in 1993 through 1995, 0.41 in 1996, 0.30 in 1997, and 0.23 in 1998 and thereafter, provided the allowable levels of fishing in 1996 and 1997 may not exceed 18.518 million lb (8.4 million kg), unless such levels have an associated F of 0.23. This schedule is mandated by the FMP to prevent overfishing and to rebuild the summer flounder resource.

The Committee reviews the following information annually: (1) Commercial and recreational catch data; (2) current estimates of stock mortality; (3) stock status; (4) recent estimates of recruitment; (5) virtual population analysis (a method for analyzing fish stock abundance); (6) levels of regulatory noncompliance by fishermen or individual states; (7) impact on fish size and net mesh regulations; (8) impact of gear, other than otter trawls, on the mortality of summer flounder;

and (9) other relevant information. Pursuant to § 648.100, after this review, the Committee recommends to the Council and Commission management measures to ensure achievement of the appropriate fishing mortality rate. The Council and Commission, in turn, make a recommendation to the Regional Administrator.

Final specifications for the 1997 summer flounder fishery were published on March 7, 1997 (62 FR 10473), including a coastwide recreational harvest limit of 7,407,532 lb (3.36 million kg). The recreational season, possession limit, and minimum size for 1997 were not established as part of the final specifications because recreational catch data for 1996 were not available for the Committee's use in evaluating the effectiveness of the 1996 measures. Shortly after preliminary 1996 data became available, the Committee met to review those data, and to recommend measures for the 1997 recreational fishery intended to achieve the recreational harvest limit. The Committee recommended an individual possession limit of six fish per person and a 15-inch (35.6-cm) minimum fish size. This recommendation was based on projected 1996 recreational landings of 11.55 million lb (5.2 million kg). That level is 4.14 million lb (1.9 million kg), or 36.2 percent, over the 1996 recreational harvest limit of 7.41 million lb (3.4 million kg).

While reviewing the Committee's recommendations in December 1996, the Council and Commission were provided with new information that indicated projected recreational landings for 1996 would be less than previously estimated. The information presented the Council and Commission indicates that projected recreational landings in 1996 would be 10.4 million lb (4.7 million kg), thus exceeding the 1996 harvest limit by 3 million lb (1.4 million kg), or 29 percent. Based on this updated information, the Council and Commission rejected the Committee's recommendations. On December 17, 1996, they recommended to the Regional Administrator a possession limit of 10 fish and a 14.5-inch (36.8-cm) minimum fish size for the 1997 recreational summer flounder fishery. These measures are proposed by this action.

Assuming that availability of summer flounder and recreational effort will not change in 1997 relative to 1996, the Council and Commission acknowledged that the recreational fishery required further constraints to prevent anglers' exceeding the 1997 harvest limit. However, noting that recreational

landings in 1995 and 1994 were below the harvest limit by 12 percent and 29 percent, respectively, the Council and Commission did not believe that a 29 percent reduction was necessary in 1997.

In making their recommendation for 1997, the Council and Commission reviewed an analysis of the effects of various size and possession limits on 1996 summer flounder recreational landings. Intercept data indicated that the recreational sector was constrained by the eight fish possession limit in 1996. Assuming 100 percent compliance and similar management measures in 1997, those same measures would effect a 9.9 percent reduction in landings in 1997 versus 1996. An increase to a 15-inch (38.1-cm) fish size with the eight fish possession limit would result in a 35.4 percent reduction. Increasing the possession limit to 10 fish, would result in a 9.7 percent reduction for a 14-inch (35.6-cm) fish size, and a 35.3 percent reduction for a 15-inch (38.1-cm) fish size.

The Council and Commission noted the variability of the data, the fact that participants were constrained by the possession limit in 1996, and that an increase in possession limit for the same fish size would have had a negligible effect on landings (a reduction of about 0.1 percent). The Council and Commission felt the 35 percent reductions associated with the 15-inch (38.1 cm) fish size were too severe, and the 9 percent reductions associated with the 14-inch (35.6-cm) fish size were not adequate. Therefore, they recommended a 14.5-inch (36.8-cm) fish size and a 10 fish possession limit. The recommendation effectively splits the reductions associated with the two fish sizes, and would result in approximately a 22.5 percent reduction in recreational landings in 1997. Although the proposed possession limit represents an increase in 1997 versus 1996, from 8 to 10 fish, the data indicate that participants would not have been any more constrained by a 10 fish possession limit, versus an eight fish limit, as shown above.

The necessary reductions in landings would be reached by the increased fish size. The increase in possession limit is proposed to offset any potential decreases in participation that may occur because of the increase in the minimum size limit. Based on 1995 angler intercept data, summer flounder was the primary species sought in an estimated 5.9 percent of the reported trips in the North Atlantic region, and 27.3 percent in the Mid-Atlantic region. Left-eyed flounders, of which summer flounder is one of several species, were

the primary species sought in an estimated 2.4 percent of the reported trips in the South Atlantic region, which includes North Carolina. These data include trips by all modes including party/charter and private/rental vessels, as well as fishing from shore and man-made structures (e.g., piers). These data, however, cannot predict the extent to which participation would be affected by the proposed measures. Thus, the reductions are dependent upon the assumption that participation (effort), as well as summer flounder availability, will not change in 1997.

The Council and Commission believe that this combination of limits, the 14.5-inch (36.8-cm) minimum fish size, which is an increase from the limit in place in 1996, and the 10 fish possession limit, will constrain anglers to the 7,407,532 lb (3.36 million kg) harvest limit in 1997.

#### Classification

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, such as the charter boats and head boats that serve the recreational fishery, as follows:

The 1997 coastwide recreational harvest limit is unchanged from 1996. The combination of management measures (minimum fish size and possession limit) is proposed to be revised to allow recreational anglers to harvest summer flounder at a level consistent with the 1997 coastwide recreational harvest limit. Revisions are proposed because projections indicate that 1996 recreational landings exceeded the harvest limit by 29 percent. Assuming that the availability of summer flounder and recreational effort do not change in 1997 relative to 1996, further constraints would be required to prevent anglers from exceeding the 1997 harvest limit. Noting the variability in recreational landings (1995 and 1994 were below the harvest limit by 12 percent and 29 percent, respectively), however, the Council and Commission do not believe that a 29-percent reduction in the 1997 harvest limit is necessary. Data indicate that, if the same measures were in place for 1997 as were in place for 1996, a 9.9-percent reduction in landings would be realized, assuming 100-percent compliance.

An increase to a 15-inch (38.1-cm) fish size, with the same possession limit, would result in a 35.4-percent reduction. An increase in the possession limit to 10 fish, with a 14-inch (35.6-cm) minimum fish size, would result in a 9.7-percent reduction in landings and, with a 15-inch (38.1-cm)

minimum fish size, would result in a 35.3-percent reduction in landings. The Council and Commission further noted the variability of the data, the fact that participants were constrained by the possession limit in 1996, and that an increase in possession limit for the same fish size would have had a negligible effect on landings (a reduction of about 0.1 percent). They felt the 35-percent reductions associated with the 15-inch (38.1-cm) fish size were too severe, and the 9-percent reductions associated with the 14-inch (35.6-cm) fish size were not adequate. They recommended a 14.5-inch (36.8-cm) minimum fish size and a 10 fish possession limit. The recommendation effectively splits the reductions associated with the two fish sizes, and would result in approximately a 22.5-percent reduction in 1997 recreational landings over the 1996 landings. The intent of this reduction is to bring landings in line with the 1997 harvest limit, which, as noted above, is unchanged from 1996. Although the proposed possession limit represents an increase in 1997 versus 1996, from 8 to 10 fish, the data indicate that participants would not have been any more constrained by a 10-fish possession limit, versus an 8-fish limit. Thus, the necessary reductions in landings would be reached by the increased fish size. The increase in possession limit is proposed to offset any potential decrease in participation that may harm the charter/party boat and rental sectors of the industry.

There are an estimated 442 vessels permitted to fish as charter/party vessels in the summer flounder fishery in the EEZ, all of which would readily qualify as small entities (having annual receipts of less than \$2 million). Based on 1995 angler intercept data, summer flounder were the primary species sought in 5.9 percent of the reported trips in the North Atlantic region and 27.3 percent in the Mid-Atlantic region. Left-eyed flounders, of which summer flounder is one of several species, were the primary species sought in an estimated 2.4 percent of the reported trips in the South Atlantic region, which includes North Carolina. These data include trips by all modes, including party/charter and private/rental vessels, as well as fishing from shore and man-made structures (e.g., piers). These data, however, cannot predict the extent to which participation would be affected by the proposed measures. Thus, the reductions are dependent upon the assumption that participation (effort), as well as summer flounder availability, will not change in 1997.

It is not known by how much the increase in minimum fish size will affect compliance costs. That is, the available data do not indicate how often the total amount retained would be less on a trip with a 14.5-inch (36.8-cm) minimum size compared to a 14-inch (35.6-cm) minimum size. In 1995, approximately 26 percent of the summer flounder landed were 14 inches (35.6 cm)—denoting a range of between 14.0 (35.6 cm) and 14.9 inches (37.8 cm). The data are available as whole-inch increments, requiring extrapolation to determine impacts of half-inch changes. Since the increase in possession limit is expected to mitigate a potential discouragement of participation, it

is expected that no vessels will cease operations for lack of participation because of this action. Likewise, since, on average, approximately 12 percent of the reported trips declare summer flounder as the primary species sought coastwide, ex-vessel revenues are not expected to increase or decrease by 5 percent or more for 20 percent or more of these participants in the recreational fishery. This presumption is supported by the fact that the 1997 coastwide recreational harvest limit is unchanged from the 1996 limit. That harvest limit is part of the total annual specifications package for the summer flounder fishery and was already certified to have no significant impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis was not prepared.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 2, 1997.

**Rolland A. Schmitten,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended 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 § 648.103, paragraph (b) is revised to read as follows:

##### § 648.103 Minimum fish sizes.

\* \* \* \* \*

(b) The minimum size for summer flounder is 14.5 inches (36.8 cm) TL for all vessels that do not qualify for a moratorium permit, or for party and charter boats holding moratorium permits, but fishing with passengers for hire or carrying more than three crew members, if a charter boat, or more than five crew members, if a party boat.

\* \* \* \* \*

3. In § 648.105, the first sentence of paragraph (a) is revised to read as follows:

##### § 648.105 Possession restrictions.

(a) No person shall possess more than 10 summer flounder in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a summer flounder moratorium permit or is issued a summer flounder dealer permit. \* \* \*

\* \* \* \* \*

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