

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648-AT60

[Docket No. 061020273-6273-01; I.D. 101606A]

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 2007 Summer Flounder, Scup, and Black Sea Bass Specifications; 2007 Research Set-Aside Projects

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

ACTION: Proposed specifications; request for comments.

SUMMARY: NMFS proposes specifications for the 2007 summer flounder, scup, and black sea bass fisheries. The implementing regulations for the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) require NMFS to publish specifications for the upcoming fishing year for each of the species and to provide an opportunity for public comment. The intent of this action is to establish harvest levels that assure that the target fishing mortality rates (F) or exploitation rates specified for these species in the FMP are not exceeded and to allow for rebuilding of the stocks in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). NMFS has conditionally approved four research projects for the harvest of the portion of the quota that has been recommended by the Mid-Atlantic Fishery Management Council (Council) to be set aside for research purposes. In anticipation of receiving applications for Experimental Fishing Permits (EFPs) to conduct this research, the Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that the activities authorized under the EFPs issued in response to the approved Research Set-Aside (RSA) projects would be consistent with the goals and objectives of the FMP. However, further review and consultation may be necessary before a final determination is made to issue any EFP.

DATES: Comments must be received on or before November 17, 2006.

ADDRESSES: You may submit comments by any of the following methods:

- E-mail: FSB2007@noaa.gov. Include in the subject line the following identifier: "Comments on 2007 Summer Flounder, Scup, and Black Sea Bass Specifications."

- Federal e-Rulemaking portal: <http://www.regulations.gov>.

- Mail and hand delivery: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope: "Comments on 2007 Summer Flounder, Scup, and Black Sea Bass Specifications."

- Fax: (978) 281-9135.

Copies of the specifications document, including the Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) and other supporting documents for the specifications are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901-6790. Copies of the supplemental economic analysis are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298. These documents are also accessible via the Internet at <http://www.nero.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, Fishery Policy Analyst, (978) 281-9279.

SUPPLEMENTARY INFORMATION:**Background**

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Council and the Atlantic States Marine Fisheries Commission (Commission), in consultation with the New England and South Atlantic Fishery Management Councils. The management units specified in the FMP include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina (NC) northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35°13.3' N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, NC) northward to the U.S./Canada border. Implementing regulations for these fisheries are found at 50 CFR part 648, subpart A (General Provisions), subpart G (summer flounder), subpart H (scup), and subpart I (black sea bass).

The regulations outline the process for specifying the annual commercial quotas and recreational harvest limits

for the summer flounder, scup, and black sea bass fisheries, as well as other management measures (e.g., mesh requirements, minimum fish sizes, gear restrictions, possession restrictions, and area restrictions) for these fisheries. The measures are intended to achieve the annual targets set forth for each species in the FMP, specified either as an F or an exploitation rate (the proportion of fish available at the beginning of the year that are removed by fishing during the year). Once the catch limits are established, they are divided into quotas based on formulas contained in the FMP.

As required by the FMP, a Monitoring Committee for each species, made up of members from NMFS, the Commission, and both the Mid-Atlantic and New England Fishery Management Councils, reviews the best available scientific information and recommends catch limits and other management measures that will achieve the target F or exploitation rate for each fishery. Consistent with the implementation of Framework Adjustment 5 to the FMP (69 FR 62818, October 28, 2004), each Monitoring Committee meets annually to recommend the Total Allowable Landings (TAL), unless the TAL has already been established for the upcoming calendar year as part of a multiple-year specification process, provided that new information does not require a modification to the multiple-year quotas. Further, the TALs may be specified in any given year for the following 1, 2, or 3 years. The Council is not obligated to specify multi-year TALs, but is able to do so, depending on the information available and the status of the fisheries.

The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) consider the Monitoring Committees' recommendations and any public comment and make their own recommendations. While the Board action is final, the Council's recommendations must be reviewed by NMFS to assure that they comply with FMP objectives. The Council and Board made their recommendations, with the exception of Board recommendations for the 2007 summer flounder fishery, at a joint meeting held August 1-3, 2006. The Board delayed its action regarding a summer flounder TAL recommendation until its October 22-26, 2006, meeting.

Explanation of RSA

In 2001, regulations were implemented under Framework Adjustment 1 to the FMP to allow up to

3 percent of the TAL for each species to be set aside each year for scientific research purposes. For the 2007 fishing year, a Request for Proposals was published to solicit research proposals based upon the research priorities that were identified by the Council (70 FR 76253, December 23, 2005). Four applicants were notified in August 2005 that their research proposals had received favorable preliminary review. For informational purposes, these proposed specifications include a statement indicating the amount of quota that has been preliminarily set aside for research purposes (3 percent of the TAL for each fishery, as recommended by the Council and Board), and a brief description of the RSA projects, and the amount of RSA requested for each project. The RSA amounts may be adjusted, following consultation with RSA applicants, in the final rule establishing the 2007 specifications for the summer flounder, scup, and black sea bass fisheries. If the total amount of RSA is not awarded, NMFS will publish a document in the **Federal Register** to restore the unused amount to the applicable TAL.

For 2007, four RSA projects have been conditionally approved by NMFS and are currently awaiting a notice of award. These projects collectively may be awarded the following amounts of RSA (3 percent of the proposed TALs): 389,490 lb (177 mt) of summer flounder; 360,000 lb (163 mt) of scup; and 150,000 lb (68 mt) of black sea bass. The projects collectively also may be awarded up to 1,124,356 lb (510 mt) of *Loligo* squid and 363,677 lb (165 mt) of bluefish.

The University of Rhode Island submitted a proposal to conduct a fourth year of work in a fishery-independent scup survey that would utilize unvented fish traps fished on hard bottom areas in southern New England waters to characterize the size composition of the scup population. Survey activities would be conducted from May 1 through November 30, 2007, at 10 rocky bottom study sites located offshore, where there is a minimal scup pot fishery and no active trawl fishery, and at 2 scup spawning ground sites. Up to two vessels would conduct the survey. Sampling would occur off the coasts of Rhode Island and southern Massachusetts. Up to three vessels would harvest the RSA during the period January 1 through December 31, 2007. The preliminary RSA requested for this project is 2,000 lb (907 kg) of summer flounder; 40,000 lb (18 mt) of scup; and 30,000 lb (14 mt) of black sea bass.

The National Fisheries Institute (NFI) and Rutgers University submitted a

proposal to conduct a fifth year of work on a commercial vessel-based trawl survey program in the Mid-Atlantic region that would track the migratory behavior of selected recreationally and commercially important species. Information gathered during this project would supplement the NMFS finfish survey databases and improve methods to evaluate how seasonal migration of fish in the Mid-Atlantic influences stock abundance estimates. Up to two vessels would conduct survey work in the Mid-Atlantic during January, March, May, and November 2007, along up to eight offshore transects. The transects would include six fixed offshore transects, one each near Alvin, Hudson, Baltimore, Poor Man's, Washington, and Norfolk Canyons, and two to three adaptive transects positioned within the Mid-Atlantic area selected during a pre-cruise meeting with NFI, Rutgers University, and the NMFS Northeast Fisheries Science Center (Center). Up to 15 1-nautical mile tows would be conducted along each transect at depths from 40 to 250 fathoms (73 to 457 m). Up to 25 vessels would harvest the RSA during the period January 1 through December 31, 2007. The preliminary RSA requested for the project is 223,140 lb (101 kg) of summer flounder; 221,581 lb (101 mt) of scup; 61,500 lb (28 mt) of black sea bass; 281,059 lb (127 mt) of *Loligo* squid; and 363,677 lb (165 mt) of bluefish.

The Cornell Cooperative Extension of Suffolk County submitted a proposal to evaluate summer flounder discard mortality in the bottom trawl fishery. The project is intended to improve and enhance fishery information relative to discard mortality of summer flounder in the bottom trawl fishery. Trawl-caught summer flounder, both legal and sub-legal size, would be measured, tagged, and kept in a live holding pen (net pen) for mortality monitoring. Mortality would be monitored on a weekly basis and fish would be released with tags after 2 weeks. Extended mortality and migration information would be collected upon recapture of tagged fish. One inshore day trip would be made every 14 to 17 days from May to September for a total of 10 day trips. Overall, with 120 fish taken on each trip, a total of 1,200 fish would be collected from commercial vessels during the project. The research trips would be made aboard 15 commercial vessels (vessels of opportunity) engaged in the mixed trawl fishery, and would be conducted inshore along the coast of southern Long Island from Jones Inlet to Montauk Point, reaching depths of 240 ft (73 m). Areas sampled would include

NMFS statistical areas 611, 612, 613, and 539. Vessels would be compensated to make three specific tows for summer flounder to assess trawl mortality. Duration of these tows would be 1, 2, and 3 hours. An additional 25 vessels would harvest the RSA amounts allocated to the project over the course of the fishing year. The preliminary RSA requested for the project is 178,000 lbs (81 mt) of summer flounder.

The National Fisheries Institute (NFI) and Rutgers University submitted a proposal to conduct studies on bycatch reduction and gear development in the Mid-Atlantic through evaluation of optimal codend mesh size in the *Loligo* squid fishery. The project would evaluate the performance of intermediate codend mesh sizes above the present legal size of 1.875 inches (4.8 cm) and below 2.5 inches (6.35 cm), e.g. mesh sizes of 2.125 inches (5.4 cm) and 2.25 inches (5.7 cm). The researchers would also attempt to determine the influence of these intermediate mesh sizes on the catch of other species such as butterfish, silver hake, and accompanying bycatch species as well as *Loligo* squid measuring below market size (4 inches (10.2 cm)). The project would use two similar vessels in the 75- to 100-ft (23- to 30-m) range to test different mesh sizes in squid nets under commercial use. The exact number of tows would depend on the duration of each tow, which would be determined by the vessel captain during fishing. The research would involve a total of 108 to 144 tows, each lasting approximately 2–3 hours, and would take place in February and/or March 2007 near the Hudson Canyon. Approximately 25 vessels would harvest the RSA amounts allocated to the project over the course of the fishing year. The preliminary RSA requested for the project is 163,633 lb (74 mt) of summer flounder; 269,305 lb (122 mt) of scup; 40,358 lb (18 mt) of black sea bass; and 331,000 lb (150 mt) of *Loligo* squid.

Regulations under the Magnuson-Stevens Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

Explanation of Quota Adjustments Due to Quota Overages

This action proposes commercial quotas based on the proposed TALs and Total Allowable Catches (TACs) and the formulas for allocation contained in the FMP. In 2002, NMFS published final regulations to implement a regulatory amendment (67 FR 6877, February 14, 2002) that revised the way in which the commercial quotas for summer

flounder, scup, and black sea bass are adjusted if landings in any fishing year exceed the quota allocated (thus resulting in a quota overage). If NMFS approves a different TAL or TAC at the final specifications stage, the commercial quotas will be recalculated based on the formulas in the FMP. Likewise, if new information indicates that overages have occurred and deductions are necessary, NMFS will publish notice of the adjusted quotas in the **Federal Register**. NMFS anticipates that the information necessary to determine whether overage deductions are necessary will be available by the time the final specifications are published. The commercial quotas contained in these proposed specifications for summer flounder, scup, and black sea bass do not reflect any deductions for overages. The final specifications, however, will contain quotas that have been adjusted consistent with the procedures described above.

Summer Flounder

The Center's Southern Demersal Working Group met in May 2005 to address the terms of reference for Stock Assessment Workshop (SAW) 41. The Stock Assessment Review Committee (SARC) accepted the 2005 stock assessment update as the basis for management advice, and also accepted the Demersal Working Group's recommended updated biological reference point values as follows: $F_{msy}=F_{max}=0.276$; $MSY=42$ million lb (22,000 mt), and $B_{msy}=204$ million lb (92,532 mt). F_{msy} is the fishing mortality rate that, if applied constantly, would result in maximum sustainable yield (MSY). F_{max} is the level of fishing mortality that produces maximum yield per recruit. When $F > F_{max}$, overfishing is considered to be occurring, and when $B < \frac{1}{2} B_{msy}$, the stock is considered overfished.

The Southern Demersal Working Group met on June 20, 2006, to update the summer flounder assessment through 2005/2006 based on the latest research survey and fisheries catch data available. This was a routine annual update, as called for by the FMP, and was based on the same population model as used in recent years. Key results of the update were as follows: Overfishing is occurring (i.e., $F > F_{max}$). Almost all of the full-age structure state and Federal survey indices used to update the assessment have dropped since 2003. Mean fish weight has decreased, and this has contributed to increased fishing mortality, as more fish are taken by weight for a given catch level. The 2005 F was estimated to have

been 0.53, a significant decline from the 1.32 estimated for 1994, but well above the threshold F of 0.276. The stock was not determined to be overfished and was estimated to be just above the biomass threshold. Total stock biomass (TSB) increased substantially during the 1990s and through 2004, but decreased slightly since 2004, and was estimated to be 105 million lb (47,627 mt) on January 1, 2006, just over the biomass threshold ($\frac{1}{2}B_{msy}$) of 102 million lb (46,266 mt). Spawning stock biomass (SSB) also increased during the 1990s through 2004 (to 72 million lb (32,659 mt) in 2004), before decreasing to 67 million lb (30,391 mt) in 2005. Recruitment since 1988 was estimated to have improved, generally, although the 2003 and 2005 year classes were estimated to have been well below the median (33 million fish) at 24.5 million fish and 14.5 million fish, respectively.

It has been recognized since 1995 that the summer flounder stock assessment model tends to underestimate F and overestimate stock biomass and recruitment in the most recent years of the analysis (typically for the previous 5 years), until those estimates stabilize as new data are added to the analysis. For example, the 2006 stock assessment update showed that the estimate for F_{2004} had increased from last year's estimate of 0.4 to 0.46; and that the estimate for F_{2005} was 0.53. This pattern is likely the result of an underestimation of the true catch, due to discards and/or unreported landings. The impact for management, given these persistent retrospective patterns, is that, although the summer flounder stock continues to increase, it is increasing at a lower rate than, and is currently at a smaller size than, previously forecast. Because the Magnuson-Stevens Act requires stocks to be rebuilt to a level that produces MSY, it was clear from the 2006 stock assessment update that additional rebuilding of these species is still required. For summer flounder, the rebuilding period ends December 31, 2009.

The regulations state that the Council shall recommend, and NMFS shall implement, measures (including the TAL) necessary to ensure, with at least a 50-percent probability of success, that the applicable specified F will not be exceeded. This requirement is also consistent with a 2000 Federal Court Order (*Natural Resources Defense Council v. Daley*, Civil No. 1:99 CV 00221 (JLG)) regarding the setting of the summer flounder TAL. Through the course of the rebuilding period, NMFS has set TALs estimated to have at least a 50-percent probability of not exceeding F_{max} .

For 2007, the Council's Summer Flounder Monitoring Committee considered that a TAL of 19.9 million lb (9,026 mt) would meet the 50-percent probability of success standard (based on the Southern Demersal Working Group 2006 update), but recommended a TAL (13.88 million lb (6,296 mt)) associated with an F of 0.185, i.e., a 33-percent reduction of the F_{max} (0.276), in order to account for the retrospective pattern of F underestimation. In August 2006, the Council and the Board discussed at length the Southern Demersal Working Group 2006 update, the TAL for 2007, and potential TALs for the remainder of the rebuilding period. The Council considered the following TAL options: (1) a 2007 TAL of 19.9 million lb (9,026 mt); (2) the Summer Flounder Monitoring Committee's recommendation of 13.88 million lb (6,296 mt) for 2007; (3) a 2007 TAL projected to result in rebuilding of the summer flounder stock by 2010 (7.69 million lb (3,489 mt)); (4) a 2007 TAL that would both allow for rebuilding by 2010 and account for the retrospective F pattern (5.22 million lb (2,368 mt)); (5) a constant TAL for 2007 through 2009 that would allow for rebuilding by 2010 (10.04 million lb (4,554 mt)); and (6) a constant TAL for 2007 through 2009 that would allow for rebuilding by 2010 and that corrects for the retrospective pattern of F underestimation (6.72 million lb (3,048 mt)). The Council focused discussion on a 2007 TAL of 19.9 million lb (9,026 mt).

During the August 2006 Council discussion of the feasibility of achieving the biomass target, given recent recruitment levels, NMFS offered to re-examine the biological reference point values based on the use of the most recent scientific information available and on use of a subset (rather than the full range) of recruitment input data. Projections were to be re-run based on the revised reference points, the current growth potential of the population, and the recent history of reproductive effort (recruitment), and the results were to be peer-reviewed. NMFS encouraged the Council to recommend a TAL for 2007, and indicated that any new information resulting from the stock assessment re-examination and the peer review thereof, if appropriate, would be reflected in the proposed specifications. In the end, the Council adopted a 2007 TAL of 19.9 million lb (9,026 mt), with 3 percent of the TAL set aside for research. This TAL would represent a 16-percent decrease for 2007 from the 2006 TAL of 23.59 million lb (10,700 mt). After deducting the RSA, the TAL

would be divided into a commercial quota (60 percent) and a recreational harvest limit (40 percent). The Board delayed its vote until its October 22–26, 2006, meeting, to consider the updated analyses.

NMFS's re-examination of the biological reference points, the peer review of this work, and subsequent analysis stemming from the peer review was completed in September 2006 and

is documented in "Summer Flounder Assessment and Biological Reference Point Update for 2006." This update is available at <http://www.nefsc.noaa.gov/nefsc/saw/2006FlukeReview/>.

The Peer Review Panel's (Panel's) review did not result in any change in the current stock status determinations of the summer flounder stock. It confirmed that overfishing occurred throughout the rebuilding period, and

that F must be substantially lowered for 2007 through 2009 to allow for rebuilding by 2010. The stock continues to be considered not overfished, but is still just slightly above the biomass threshold. Table 1 summarizes and compares findings from the Southern Demersal Working Group 2006 Update and the recent peer reviewed assessment and biological reference point update.

TABLE 1. COMPARISON OF THE FINDINGS OF THE SOUTHERN DEMERSAL WORKING GROUP 2006 UPDATE) AND THE PEER REVIEWED SUMMER FLOUNDER ASSESSMENT AND BIOLOGICAL REFERENCE POINT UPDATE)

Factor	2006 Assessment (June 2006)	Update (September 2006)
$F_{\max}$	0.276	0.280
F_{rebuild}	0.099	0.15
F_{2005}	0.528	0.407
Overfishing	Yes	Yes
R	33.11 million fish (median)	37 million fish (mean)
$B_{\text{msy proxy}}$	TSB=204 million lb (92,645 mt)	TSB (age 1 + fish) = 215 million lb (97,430 mt) SSB=197 million lb (89,411 mt)*
Biomass threshold	$\frac{1}{2}$ TSB=102 million lb (46,323 mt)	$\frac{1}{2}$ SSB=98.5 million lb (44,706 mt)
SSB ₂₀₀₅	67 million lb (30,600 mt)	105 million lb (47,498 mt)
TSB ₂₀₀₅	105 million lb (47,800 mt) (age 0+ fish)	113 million lb (51,317 mt) (age 1+ fish)
Overfished	No (52% of B_{msy})	No (53% of B_{msy})
MSY	42 million lb (19,072 mt)	47 million lb (21,444 mt)

* Panel suggested use of SSB as B_{msy} proxy in the future, but provided TSB information for comparison.

The Panel recommended several adjustments in the assessment. The most important of these are that the stock condition be assessed using SSB rather than TSB, and several changes in how the weight of fish not yet Age 1 is used in the stock assessment model. With respect to the Southern Demersal Working Group 2006 Update, the recently updated analysis (which incorporated the Panel recommendations) lowered the best estimate of B_{msy} , raised $F_{\max}$ slightly, raised MSY, and raised the SSB estimates and lowered the F estimates for 2000–2005. The annual F projected to allow for rebuilding to SSB_{max} by 2010 (F_{rebuild}) is currently estimated to be 0.15. Should an F of 0.15 in the 2007 fishing year prove to be inconsistent with allowing the stock to rebuild by 2010, based on the results of the annual summer flounder stock assessment

update in June 2007, NMFS would adjust the target F for 2008. Similar adjustment for the 2009 target F would occur based on the June 2008 stock assessment update, if necessary. Fishing at $F=0.15$ starting in 2007 is also anticipated to rebuild the stock to within 1 percent of the B_{msy} proxy currently in the FMP (a TSB of 204 million lb (92,645 mt)) by 2010. The Panel acknowledged the retrospective pattern of F underestimation (by 34 percent), biomass overestimation (by 12 percent), and recruitment overestimation (by 4 percent). The Panel made no recommendation on how to adjust the analysis for this pattern, but noted that it should be taken into account when setting management targets.

At the October 10–12, 2006, Council meeting, following a presentation of the Panel's findings, the Council voted to

include a provision to amend the summer flounder biomass target, based on the updated, best available scientific information, in Amendment 14 to the FMP, which is currently under Council development.

Projections indicate that fishing at a constant $F_{\max}$ level of 0.28 would result in not achieving the biomass target until after 2022. As indicated above, commensurate with the objectives of the FMP, reduced TALs will be needed for 2007 through 2009 to achieve the biomass target by the end of the 10-year rebuilding period for summer flounder. The best available scientific information indicates that a TAL of 14.156 million lb (6,421 mt) is expected to have at least a 50-percent probability of achieving an F of 0.15 in 2007, if the TAL and assumed discard level in 2006 are not exceeded. It also will also ensure, with a much greater than 50-percent

probability of success, that $F_{\max}$ will not be exceeded. The setting of an annual TAL greater than this amount would be contrary to the rebuilding requirements of the Magnuson-Stevens Act and objectives of the FMP.

In consideration of the Panel's recommendation to take the retrospective pattern of F underestimation into account when setting management targets, and the requirement to rebuild the stock by the end of 2009, NMFS proposes a TAL that is associated with a 75-percent probability of achieving the F that is projected to allow the stock to rebuild to an SSB of 197 million lb (89,411 mt) and further assure to an even greater extent that $F_{\max}$ will not be exceeded. The best available scientific information indicates that a TAL of 12.983 million lb (5,889 mt) is expected to have at least a 75-percent probability of achieving an F of 0.15 in 2007, if the TAL and assumed discard level in 2006 are not exceeded, and is expected to allow for rebuilding of the stock to the target biomass by the end of 2009.

For these reasons, NMFS proposes a summer flounder TAL of 12.983 million

lb (5,889 mt) for 2007. This TAL would represent a 45-percent decrease for 2007 from the 2006 TAL of 23.59 million lb (10,700 mt). The initial TAL would be allocated 60 percent (7,789,800 lb (3,533 mt)) to the commercial sector and 40 percent (5,193,200 lb (2,356 mt)) to the recreational sector, as specified in the FMP. For 2007, the Council and Board agreed to set aside 3 percent of the summer flounder TAL for research activities. After deducting the RSA (389,490 lb (177 mt)) from the TAL proportionally for the commercial and recreational sectors, as specified in the FMP, i.e., 60 percent and 40 percent, respectively, the commercial quota would be 7,556,106 lb (3,427 mt) and the recreational harvest limit would be 5,037,404 lb (2,285 mt). The commercial quota then would be allocated to the coastal states based upon percentage shares specified in the FMP.

In addition, the Commission is expected to maintain the voluntary measures currently in place to reduce regulatory discards that occur as a result of landing limits established by the states. The Commission established a

system whereby 15 percent of each state's quota would be voluntarily set aside each year to enable vessels to land an incidental catch allowance after the directed fishery has been closed. The intent of the incidental catch set-aside is to reduce discards by allowing fishermen to land summer flounder caught incidentally in other fisheries during the year, while also ensuring that the state's overall quota is not exceeded. These Commission set-asides are not included in these proposed specifications because these measures are not authorized by the FMP and NMFS does not have authority to implement them.

Table 2 presents the proposed allocations by state, with and without the commercial portion of the RSA deduction. These state quota allocations are preliminary and are subject to reductions if there are overages of states quotas carried over from a previous fishing year (using the landings information and procedures described earlier). Any commercial quota adjustments to account for overages will be included in the final rule implementing these specifications.

TABLE 2. 2007 PROPOSED INITIAL SUMMER FLOUNDER STATE COMMERCIAL QUOTAS.

State	Percent Share	Commercial Quota		Commercial Quota less RSA ¹	
		lb	kg ²	lb	kg ²
ME	0.04756	3,705	1,681	3,594	1,630
NH	0.00046	36	16	35	16
MA	6.82046	531,300	240,998	515,361	233,768
RI	15.68298	1,221,673	554,151	1,185,023	537,526
CT	2.25708	175,822	79,753	170,547	77,360
NY	7.64699	595,685	270,203	577,815	262,097
NJ	16.72499	1,302,843	590,970	1,263,758	573,241
DE	0.01779	1,386	629	1,344	610
MD	2.03910	158,842	72,051	154,077	69,889
VA	21.31676	1,660,533	753,218	1,610,717	730,621
NC	27.44584	2,137,976	969,786	2,073,837	940,692
TOTAL ³	100.00001	7,789,801	3,553,456	7,556,108	3,427,450

¹ Preliminary Research Set-Aside: 3 percent of the commercial quota, i.e., 233,694 lb (106 mt).

² Kilograms are as converted from pounds and do not sum to the converted total due to rounding.

³ Rounding of quotas results in totals exceeding 100 percent.

Scup

For scup, the stock is considered overfished when the 3-year average of scup SSB is less than the biomass threshold (2.77 kg/tow; the maximum Center spring survey 3-year average of

SSB). Scup was last formally assessed in June 2002 at the 35th Northeast Regional Stock Assessment Workshop (SAW). At that time, SARC 35 indicated that the species was no longer overfished, but that stock status with respect to

overfishing could not be evaluated. An anomalously large spring SSB index value for 2002 resulted in the 3-year SSB average exceeding the biomass threshold for 2001 through 2003. However, more recent information

indicates that the scup SSB has decreased, and the 3-year SSB average values for 2004 (0.69 kg/tow) and 2005 (1.32 kg/tow) were under one-quarter and one-half of the SSB threshold, respectively. Therefore, the stock is considered overfished.

The proposed scup specifications for 2007 are based on an exploitation rate (21 percent) in the rebuilding schedule that was approved when scup was added to the FMP in 1996, prior to passage of the Sustainable Fisheries Act (SFA). Subsequently, to comply with the SFA amendments to the Magnuson-Stevens Act, the Council prepared Amendment 12 to the FMP, which proposed to maintain the existing rebuilding schedule for scup established by Amendment 8 to the FMP. On April 28, 1999, NMFS disapproved the proposed rebuilding plan for scup because the rebuilding schedule did not appear to be sufficiently risk-averse. Later, however, NMFS advised the Council that use of the exploitation rate as a proxy for F would be acceptable and sufficiently risk-averse. NMFS considers the risks associated with the disapproved rebuilding plan as not applicable to the proposed specifications because they apply only for 1 fishing year and will be reviewed, and modified as appropriate, by the Council and NMFS annually. Furthermore, setting the scup specifications using an exploitation rate of 21 percent is a more risk-averse approach to managing the resource than not setting any specifications until the Council submits, and NMFS approves, a revised rebuilding plan that complies with all Magnuson-Stevens Act requirements. The Council is currently addressing this deficiency through Amendment 14 to the FMP, which is under development.

Given the uncertainty associated with the spring survey, the Council and Board agreed with the Scup Monitoring Committee recommendation to set a TAC and TAL for 1 year only. A recommendation on the TAC for 2007 is complicated by the lack of information on discards and mortality estimates for fully recruited fish. In recent years, Council staff has used the 3-year SSB index average, the relative exploitation index (based on total landings and the spring survey SSB index), and

assumptions about F to develop a TAL recommendation. That approach would indicate that a TAL of 31.12 million lb (14,116 mt; nearly double that for 2006) would achieve the target exploitation rate of 21 percent in 2007. Council staff cautioned against use of the SSB index to derive a TAC for 2007, given the current overfished status for scup, poor 2004 and 2005 year classes, and the uncertainty associated with the survey indices, and instead suggested a TAL of 12 million lb (5,443 mt). This value, which is 26-percent lower than the 2006 TAL, falls within the range of yields expected at about $\frac{1}{2}B_{msy}$ (11–16.5 million lb (4,990–7,484 mt)) based on the long-term potential catch, and would constrain harvest to the level of actual landings in 2005. The Scup Monitoring Committee agreed with the Council staff recommendation. Estimated discards of 1.97 million lb (894 mt) were added to the TAL to derive a TAC of 17.97 million lb (8,151 mt).

Reasoning that the scup winter trip limits have been effective in reducing scup discards and that the commercial fishery has not met its quota in the last few years, and concerned about potential shift in effort from summer flounder to scup, the Council and Board rejected the Monitoring Committee recommendation and instead recommended a TAL of 16 million lb (7,258 mt), an amount at the high end of the range of yields expected at $\frac{1}{2}B_{msy}$, and representing a less than 2-percent decrease from 2006, with 3 percent of the TAL set aside for research.

NMFS is concerned about implementing the scup TAL recommended by the Council and Board for the reasons identified by the Scup Monitoring Committee and because the spring survey index values have fallen below the biomass threshold, upon which long-term potential catch projections are based. Following NMFS's notification to the Council in August 2005 that the scup stock had been designated as overfished, the Council initiated development of Amendment 14 to implement a plan to rebuild the scup fishery. Although the amendment is not scheduled to be effective until 2007 (affecting TAL specification for 2008 and beyond), the setting of a more conservative 2007 TAL

would contribute to the rebuilding efforts for this overfished stock.

For these reasons, NMFS proposes to implement a scup TAL of 12 million lb (5,443 mt) for 2007. This TAL would represent a 26-percent decrease for 2007 from the 2006 TAL of 16.27 million lb (7,380 mt). The FMP specifies that the TAC associated with a given exploitation rate be allocated 78 percent to the commercial sector and 22 percent to the recreational sector. Scup discard estimates are deducted from both sectors' TACs to establish TALs for each sector, i.e., TAC minus discards equals TAL. The commercial TAC, discards, and TAL (commercial quota) are then allocated on a percentage basis to three quota periods, as specified in the FMP: Winter I (January–April)--45.11 percent; Summer (May–October)--38.95 percent; and Winter II (November–December)--15.94 percent. The commercial TAC would be 10,900,000 lb (4,943 mt) and the recreational TAC would be 3,070,000 lb (1,394 mt). After deducting estimated discards (1.72 million lb (780 mt) for the commercial sector and 250,000 lb (113 mt) for the recreational sector), the initial commercial quota would be 9,176,600 lb (4,163 mt) and the recreational harvest limit would be 2,823,400 lb (1,281 mt). The Council and Board agreed to set aside 3 percent of the TAL for research activities. Deducting this RSA (360,000 lb (163 mt)) would result in a commercial quota of 8,895,800 lb (4,035 mt) and a recreational harvest limit of 2,744,200 lb (1,245 mt).

The proposed specifications would maintain the base scup possession limits, i.e., 30,000 lb (13,608 mt) for Winter I, to be reduced to 1,000 lb (454 kg) when 80 percent of the quota is projected to be reached, and 2,000 lb (907 kg) for Winter II, as implemented for 2006.

Table 3 presents the 2007 commercial allocation recommended by the Council, with and without the preliminary 280,800–lb (127–mt) RSA deduction. These 2007 allocations are preliminary and may be subject to downward adjustment due to 2005 overages in the final rule implementing these specifications, based on the procedures for calculating overages described earlier.

TABLE 3. 2007 PROPOSED INITIAL TAC, COMMERCIAL SCUP QUOTA, AND POSSESSION LIMITS.

Period	Percent	TAC in lb (mt)	Discards in lb (mt)	Commercial Quota in lb (mt)	Commercial Quota less RSA in lb (mt)	Possession Limits in lb (kg)
Winter I	45.11	4,915,456 (2,230)	775,892 (352)	4,139,564 (1878)	4,012,895 (1820)	30,000 ¹ (13,608)

TABLE 3. 2007 PROPOSED INITIAL TAC, COMMERCIAL SCUP QUOTA, AND POSSESSION LIMITS.—Continued

Period	Percent	TAC in lb (mt)	Discards in lb (mt)	Commercial Quota in lb (mt)	Commercial Quota less RSA in lb (mt)	Possession Limits in lb (kg)
Summer	38.95	4,244,226 (1,925)	669,940 (304)	3,574,286 (1,621)	3,464,914 (1,572)	n/a
Winter II	15.94	1,736,918 (788)	274,168 (124)	1,462,750 (664)	1,417,991 (643)	2,000 (907)
Total ²	100.00	10,896,600 (4,943)	1,720,000 (780)	9,176,600 (4,163)	8,895,800 (4,035)	

¹The Winter I landing limit would drop to 1,000 lb (454 kg) upon attainment of 80 percent of the seasonal allocation.

²Totals subject to rounding error.

n/a—Not applicable

The final rule to implement Framework 3 to the FMP (68 FR 62250, November 3, 2003) implemented a process, for years in which the full Winter I commercial scup quota is not

harvested, to allow unused quota from the Winter I period to be rolled over to the quota for the Winter II period. As shown in Table 4, the proposed specifications would maintain the

Winter II possession limit-to-rollover amount ratios (1,500 lb (680 kg) per 500,000 lb (227 mt) of unused Winter I period quota), as implemented for 2006.

TABLE 4. POTENTIAL INCREASE IN WINTER II POSSESSION LIMITS BASED ON THE AMOUNT OF SCUP ROLLED OVER FROM WINTER I TO WINTER II PERIOD.

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	mt	lb	kg	lb	kg
2,000	907	0–499,999	0–227	0	0	2,000	907
2,000	907	500,000–999,999	227–454	1,500	680	3,500	1,588
2,000	907	1,000,000–1,499,999	454–680	3,000	1,361	5,000	2,268
2,000	907	1,500,000–1,999,999	680–907	4,500	2,041	6,500	2,948
2,000	907	2,000,000–2,500,000	907–1,134	6,000	2,722	8,000	3,629

Black Sea Bass

Amendment 12 to the FMP indicated that the black sea bass stock, which was determined by SARC 27 to be overfished in 1998, could be rebuilt to the target biomass within a 10-year period, i.e., by 2010. The current target exploitation rate is based on the current estimate of Fmax, or 0.33 (25.6 percent). The northern stock of black sea bass was last assessed at the 43rd SAW in June 2006. The SARC 27 Panel did not consider the stock assessment to provide an adequate basis to evaluate stock status against the biological reference points, but did not recommend any other reference points to replace them.

The most recent Center spring survey results indicate that the exploitable biomass of black sea bass decreased in 2005. The 2005 biomass index, i.e., the 3-year average exploitable biomass for 2004 through 2006, is estimated to be 0.804 kg/tow, below the threshold biomass value of 0.976 kg/tow. Based on these results, if the biological reference

points in the FMP are applied, black sea bass once again would be determined to be overfished.

The best available information on stock status indicates that stock size has increased in recent years. In addition, the 2005 year class may be above average. If protected, this year class should allow for additional stock rebuilding in 2006 and beyond. Given the lack of stock projections, it is difficult to predict what the actual biomass will be in 2007. Because the estimate of exploitable biomass is based on a 3-year average, the actual estimate for 2007 will not be derived until the spring 2008 survey results are available; if it is 0.328 (equal to the average for 2004–2006), and assuming an exploitation rate of 21 percent in 2003, the TAL associated with the target exploitation rate would be 4.68 million lb (2,123 mt). However, if the 2007 estimate is 0.396 (equal to the average for 2003–2005), the TAL associated with the target exploitation rate would be 5.650 million lb (2,563 mt). Given the

uncertainty in the survey estimates and the potential underestimation of the 2003 exploitation rate (21 percent), the Monitoring Committee agreed with the Council staff recommendation to set a 1-year TAL (for 2007) of 5 million lb (2,270 mt), noting that it would constrain the 2007 landings to the 2005 and 2006 levels.

Reasoning that the TAL should be set at a level higher than 2005 landings (to avoid discards and highgrading, to accommodate a potential shift in effort from the summer flounder fishery, and assuming that black sea bass availability may improve in 2007), but recognizing the need for a more conservative TAL than implemented for 2006, the Council and Board rejected the Monitoring Committee recommendation, and recommended instead a 6.5-million-lb (2,948-mt) TAL for 2007, with 3 percent of the TAL set aside for research. This TAL would represent a 19-percent decrease from 2006.

NMFS has concerns regarding the Council and Board-recommended black

sea bass TAL, which is well above the range of TALs considered by the Monitoring Committee, for the reasons specified above. More conservative black sea bass TALs will likely need to be implemented during the remainder of the rebuilding period to allow for growth of exploitable biomass (reflected by the spring survey index). NMFS has encouraged the Council to manage this stock with caution and to initiate a process to develop replacement stock status determination criteria that are scientifically supportable and that can be relied on to measure the progress of rebuilding.

For the reasons described above, NMFS proposes to implement a black sea bass TAL of 5 million lb (2,270 mt) for 2007. This TAL would represent a 37.5-percent decrease from the 2006 TAL of 8 million lb (3,629 mt). The FMP specifies that the TAL associated with a given exploitation rate be allocated 49 percent to the commercial sector and 51 percent to the recreational sector; therefore, the initial TAL would be allocated 2.45 million lb (1,111 mt) to the commercial sector and 2.55 million lb (1,157 mt) to the recreational sector. The Council and Board also agreed to set aside 3 percent of the black sea bass TAL for research activities. After deducting the RSA (150,000 lb (68 mt)), the TAL would be divided into a commercial quota commercial quota of 2,376,500 lb (1,078 mt) and a recreational harvest limit of 2,473,500 lb (1,122 mt), as specified in the FMP.

Classification

These proposed specifications are exempt from review under Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact these proposed specifications, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule. A copy of this analysis is available from NMFS (see **ADDRESSES**). A summary of the economic analysis follows.

The economic analysis assessed the impacts of the various management alternatives. The no action alternative is defined as follows: (1) No proposed specifications for the 2007 summer flounder, scup, and black sea bass fisheries would be published; (2) the indefinite management measures (minimum mesh sizes, minimum sizes, possession limits, permit and reporting requirements, etc.) would remain unchanged; (3) there would be no quota set-aside allocated to research in 2007; (4) the existing gear restrictive areas would remain in place for 2007; and (5) there would be no specific cap on the allowable annual landings in these fisheries (i.e., there would be no quotas). Implementation of the no action alternative would be inconsistent with the goals and objectives of the FMP, its implementing regulations, and the Magnuson-Stevens Act. In addition, the no action alternative would substantially complicate the approved management program for these fisheries, and would very likely result in overfishing of the resources. Therefore, the no action alternative is not

considered to be a reasonable alternative to the preferred action.

The Council prepared economic analyses for Alternatives 1 through 3. Alternative 1 consists of the harvest limits proposed by the Council for summer flounder, and the Council and Board for scup and black sea bass. Alternative 2 consists of the most restrictive quotas (i.e., lowest landings) considered by the Council and the Board for all of the species. Alternative 3 consists of the status quo quotas, which were the least restrictive quotas (i.e., highest landings) considered by the Council and Board for all three species. NMFS prepared a supplemental economic analysis for Alternatives 4 through 6. Although NMFS defined Alternative 4 as the no action alternative, no analysis was undertaken for the reasons described above, i.e., because it would likely result in overfishing of the resources. Alternative 5 consists of a summer flounder TAL of 14.156 million lb (6,421 mt, associated with a 50-percent probability of not exceeding the F target) and the most restrictive quotas for scup and black sea bass. Alternative 6 consists of a summer flounder TAL of 12.983 million lb (5,889 mt, associated with a 75-percent probability of not exceeding the F target) and the most restrictive quotas for scup and black sea bass. For clarity, these proposed specifications are described in Alternative 6.

Table 5 presents the 2007 initial TALs, RSA, commercial quotas adjusted for RSA, and preliminary recreational harvests for the fisheries under these three quota alternatives.

TABLE 5. COMPARISON, IN LB (MT), OF THE ALTERNATIVES OF QUOTA COMBINATIONS REVIEWED.

	Initial TAL	RSA	Preliminary Adjusted Commercial Quota ¹	Preliminary Recreational Harvest Limit
Quota Alternative 1 (Council's Preferred)				
Summer Flounder	19.9 million (9,026)	567,092 ² (257)	11.60 million (5,261)	7.73 million (3,506)
Scup	16 million (7,257)	480,000 (218)	11.93 million (5,411)	3.59 million (1,628)
Black Sea Bass	6.5 million (2,948)	132,000 ² (60)	3.12 million (1,415)	3.25 million (1,474)
Quota Alternative 2 (Most Restrictive)				
Summer Flounder	5.22 million (2,368)	156,600 (71)	3.04 million (1,379)	2.03 million (921)
Scup	12 million (5,442)	360,000 (163)	8.9 million (4,037)	2.74 million (1,243)
Black Sea Bass	5 million (2,268)	132,000 ² (60)	2.39 million (1,084)	2.48 million (1,125)

TABLE 5. COMPARISON, IN LB (MT), OF THE ALTERNATIVES OF QUOTA COMBINATIONS REVIEWED.—Continued

	Initial TAL	RSA	Preliminary Adjusted Commercial Quota ¹	Preliminary Recreational Harvest Limit
Quota Alternative 3 (Status Quo-Least Restrictive)				
Summer Flounder	23.59 million (10,700)	567,062 ² (257)	13.81 million (6,264)	9.21 million (4,178)
Scup	16.27 million (7,380)	488,100 (221)	12.13 million (5,502)	3.65 million (1,656)
Black Sea Bass	8 million (3,629)	132,000 ² (60)	3.86 million (1,751)	4.01 million (1,819)
Quota Alternative 4 (No Action - not analyzed)				
Quota Alternative 5 (NMFS analysis)				
Summer Flounder	14.156 million (6,421)	424,680 (193)	8.24 million (3,738)	5.49 million (2,490)
Scup	12 million (5,443)	360,000 (163)	8.9 million (4,037)	2.74 million (1,243)
Black Sea Bass	5 million (2,268)	150,000 (68)	2.38 million (1,078)	2.47 million (1,122)
Quota Alternative 6 (NMFS analysis - Proposed Action)				
Summer Flounder	12.983 (5,889)	389,490 (177)	7.56 million (3,429)	5.04 million (2,286)
Scup	12 million (5,443)	360,000 (163)	8.9 million ()	2.74 million (1,243)
Black Sea Bass	5 million (2,268)	150,000 (68)	2.38 million (1,078)	2.47 million (1,122)

¹ Note that preliminary quotas are provisional and may change to account for overages of the 2006 quotas.

² Actual RSA amount analyzed by Council staff (rather than 3 percent of TAL)

³ Metric tons are as converted from pounds and are subject to rounding error

Table 6 presents the percent change associated with each of these commercial quota alternatives (adjusted for RSA) compared to the final adjusted quotas for 2006.

TABLE 6. PERCENT CHANGE ASSOCIATED WITH 2007 ADJUSTED COMMERCIAL QUOTA ALTERNATIVES COMPARED TO 2006 COMMERCIAL ADJUSTED QUOTAS.

	Total Changes Including Overages and RSA				
	Quota Alternative 1 (Council Preferred)	Quota Alternative 2 (Most Restrictive)	Quota Alternative 3* (Least Restrictive)	Quota Alternative 5	Quota Alternative 6
Summer Flounder					
Aggregate Change	-16%	-78%	+ less than 1%	-41%	-46%
Scup					
Aggregate Change	no change	-25%	+ less than 2%	-25%	-25%
Black Sea Bass					
Aggregate Change	-19%	-38%	+ less than 1%	-38%	-38%

* Denotes status quo management measures.

All vessels that would be impacted by this proposed rulemaking are considered to be small entities; therefore, there would be no

disproportionate impacts between large and small entities. The categories of small entities likely to be affected by this action include commercial and

charter/party vessel owners holding an active Federal permit for summer flounder, scup, or black sea bass, as well as owners of vessels that fish for any of

these species in state waters. The Council estimates that the proposed 2007 quotas could affect 2,242 vessels that held a Federal summer flounder, scup, and/or black sea bass permit in 2005. However, the more immediate impact of this rule will likely be felt by the 906 vessels that actively participated in these fisheries (i.e., landed these species) in 2005.

The Council estimated the total revenues derived from all species landed by each vessel during calendar year 2005 to determine a vessel's dependence and revenue derived from a particular species. This estimate provided the base from which to compare the effects of the proposed quota changes from 2006 to 2007.

The analysis of the harvest limits in Alternative 1 (the Council's preferred alternative) indicated that these harvest levels would result in revenue losses of less than 5 percent for 34 vessels and greater than or equal to 5 percent for 859 vessels. More specifically, vessels are projected to incur revenue reductions as follows: No change, 13 vessels; 5–9 percent, 104 vessels; 10–19 percent, 755 vessels; 20 percent or greater, 0 vessels. Most commercial vessels showing revenue reduction of greater than 5 percent are concentrated in MA, RI, NY, NJ, and NC. The Council also examined the level of ex-vessel revenues for the impacted vessel to assess further impacts. While the analysis presented above indicates that in relative terms a large number of vessels (859) are likely to experience revenue reductions of more than 5 percent, dealer data show that a large proportion of those vessels (296 vessels, or 34 percent) had small gross sales (less than \$1,000), thus indicating that the dependence on fishing is likely very small.

The Council also analyzed changes in total gross revenue that would occur as a result of the quota alternatives. Alternative 1 would decrease total summer flounder and black sea bass revenues by approximately \$3.72 million and \$1.80 million, respectively, relative to expected revenues earned from the 2006 quotas. No changes in scup revenues are expected in 2007 relative to 2006 since the proposed scup quota under Alternative 1 is identical to quota in place in 2006.

The overall reduction in ex-vessel gross revenue associated with the potential changes in quotas in 2007 versus 2006 is approximately \$5.52 million (in 2005 dollars) under Alternative 1. Assuming that the decrease in total ex-vessel gross revenue associated with the proposed rule for each fishery is distributed equally among the vessels that landed those

species in 2005 (the last full year of data availability), the average decrease in gross revenue per vessel associated with the preferred quota would be \$4,960 for summer flounder and \$3,197 for black sea bass. The total average gross revenue reduction for vessels that land both summer flounder and black sea bass would then be \$8,157. No revenue reductions are expected for scup. The number of vessels landing summer flounder, scup, and black sea bass in 2005 was 750, 439, and 563, respectively.

The predicted changes in ex-vessel gross revenues associated with the potential changes in quotas in 2007 versus 2006 assumed static 2005 prices (summer flounder--\$1.70/lb; scup--\$0.75/lb; and black sea bass--\$2.54/lb). However, if prices for these species change as a consequence of changes in landings, then the associated revenue changes could be different than those estimated above, and could mitigate some of the revenue reductions associated with lower quantities of quota available under this alternative.

The analysis of the harvest limits of Alternative 2 (i.e., the most restrictive harvest limits) indicated that all 906 vessels would incur revenue losses equal to or greater than 5 percent. More specifically, vessels are projected to incur revenue reductions as follows: 5–9 percent, 0 vessels; 10–19 percent, 0 vessels; 20–29 percent, 24 vessels; 30–39 percent, 180 vessels; 40–49 percent, 31 vessels; and greater or equal to 50 percent, 671 vessels. The majority of the revenue losses of 50 percent or higher are attributed to quota reductions associated with the summer flounder fishery. Further examination shows that 311 of the impacted vessels (34 percent) had gross sales of \$1,000 or less and 491 of the impacted vessels (54 percent) had gross sales of \$10,000 or less, thus likely indicating that the dependence on these fisheries for some of these vessels is very small. As in Alternative 1, most commercial vessels showing revenue reduction are concentrated in MA, RI, NY, NJ, and NC.

Alternative 2 was estimated to decrease total summer flounder, scup, and black sea bass revenues by approximately \$18.28 million, \$2.27 million and \$3.64 million respectively, relative to expected revenues earned from the 2006 quotas. The overall reduction in ex-vessel gross revenue associated with the potential changes in quotas in 2007 versus 2006 is approximately \$24.19 million (in 2005 dollars) under Alternative 2. Assuming that the decrease in total ex-vessel gross revenue associated with the proposed rule for each fishery is distributed

equally among the vessels that landed those species in 2005 (the last full year of data availability), the average decrease in gross revenue per vessel associated with the Alternative 2 quota would be \$24,373 for summer flounder, \$5,170 for scup and \$6,465 for black sea bass. The total average gross revenue reduction for vessels that land summer flounder, scup and black sea bass would then be \$36,008. The number of vessels landing summer flounder, scup, and black sea bass in 2005 was 750, 439, and 563, respectively.

The predicted changes in ex-vessel gross revenues associated with the potential changes in quotas in 2007 versus 2006 assumed static 2005 prices (summer flounder--\$1.70/lb; scup--\$0.75/lb; and black sea bass--\$2.54/lb). However, if prices for these species change as a consequence of changes in landings, then the associated revenue changes could be different than those estimated above, and could mitigate some of the revenue reductions associated with lower quantities of quota available under this alternative.

The analysis of the harvest limits in Alternative 3 (i.e., the least restrictive harvest limits) indicated that these harvest levels would result in revenue increases for 488 vessels and losses of less than 5 percent for 418 vessels. As in the analysis for Alternative 1, it is likely that a large proportion of the impacted vessels are likely to have small gross sales (less than \$1,000), thus indicating that the dependence on these fisheries is likely very small.

Alternative 3 was estimated to increase total summer flounder, scup and black sea bass revenues by approximately \$0.03 million, \$0.15 million and \$0.08 million respectively, relative to expected revenues earned from the 2006 quotas (assuming the entire quotas are landed).

The overall increase in ex-vessel gross revenue associated with the potential changes in quotas in 2007 versus 2006 is approximately \$0.26 million (in 2005 dollars) under Alternative 3. Assuming that the increase in total ex-vessel gross revenue associated with the proposed rule for each fishery is distributed equally among the vessels that landed those species in 2005 (the last full year of data availability), the average increase in gross revenue per vessel associated with the Alternative 3 quota would be \$40 for summer flounder, \$342 for scup and \$142 for black sea bass. The total average gross revenue reduction for vessels that land all three species would then be \$524. The number of vessels landing summer flounder, scup, and black sea bass in 2005 was 750, 439, and 563, respectively.

The predicted changes in ex-vessel gross revenues associated with the potential changes in quotas in 2007 versus 2006 assumed static 2005 prices (summer flounder--\$1.70/lb; scup--\$0.75/lb; and black sea bass--\$2.54/lb). However, if prices for these species change as a consequence of changes in landings, then the associated revenue changes could be different than those estimated above, and could mitigate some of the revenue reductions associated with lower quantities of quota available under this alternative.

The NMFS analysis of the harvest limits in Alternative 5 indicate that these harvest levels would result in revenue losses of less than 5 percent for 548 vessels and greater than or equal to 5 percent for 369 vessels (with a total of 917 active vessels for 2005). More specifically, vessels are projected to incur revenue reductions as follows: 5–9 percent, 86 vessels; 10–19 percent, 149 vessels; 20–29 percent, 70 vessels; and 30–39 percent, 64 vessels. As in Alternative 1, most commercial vessels showing revenue reduction are concentrated in MA, RI, NY, NJ, and NC.

The overall decrease in gross revenue associated with the reduced quotas in 2007 compared to expected landings levels in 2006 is approximately \$11,414,200 (in 2006 dollars) under Alternative 5. By species, Alternative 5 would decrease total summer flounder, scup and black sea bass revenues by \$9.68 million, \$0.51 million and \$1.22 million, respectively. If the decreases are assumed to be distributed equally among the vessels that landed those species in 2005 (the last full year of data availability), the average decrease in gross revenue per vessel associated with Alternative 5 would be \$12,810 for summer flounder, \$1,145 for scup and \$2,125 for black sea bass. The averages are additive so for vessels that land all three species the average gross revenue reduction is estimated at \$16,080. The number of vessels landing summer flounder, scup, and black sea bass in 2005 was determined by NMFS to be 756, 448, and 574, respectively.

In the NMFS analysis, a price-quantity equation was used to predict how reductions in summer flounder landings affect ex-vessel prices. The average nominal ex-vessel price per pound for summer flounder was estimated to be \$1.79 in 2006 (assuming the entire TAL will be landed) and was estimated to increase to \$1.91 in 2007 under Alternative 5 in response to reduced landings levels. To compare projected summer flounder revenues under Alternative 5 to 2006 levels, the 2007 average ex-vessel price per pound

(\$1.91) was converted to its 2006 inflation adjusted value of \$1.86. For scup and black sea bass, it was assumed that the price-quantity relationships will remain constant under Alternative 5. Although to account for the effect of rising seafood prices, inflation adjusted 2006 average ex-vessel prices per pound were calculated for both scup (\$0.77) and black sea bass (\$2.60) in the analysis.

The NMFS analysis of the harvest limits in Alternative 6 indicated that these harvest levels would result in revenue losses of less than 5 percent for 542 vessels and greater than or equal to 5 percent for 375 vessels (with a total of 917 active vessels for 2005). More specifically, vessels are projected to incur revenue reductions as follows: 5–9 percent, 83 vessels; 10–19 percent, 145 vessels; 20–29 percent, 64 vessels; 30–39 percent, 52 vessels; and 40–49 percent, 31 vessels. As in Alternative 1, most commercial vessels showing revenue reduction are concentrated in MA, RI, NY, NJ, and NC.

The overall decrease in gross revenue associated with the reduced quotas in 2007 compared to expected landings levels in 2006 is approximately \$12,533,500 (in 2006 dollars) under Alternative 6. By species, Alternative 6 would decrease total summer flounder, scup and black sea bass revenues by \$10.8 million, \$0.51 million and \$1.22 million, respectively. If the decreases are assumed to be distributed equally among the vessels that landed those species in 2005 (the last full year of data availability), the average decrease in gross revenue per vessel associated with Alternative 6 would be \$14,290 for summer flounder, \$1,145 for scup and \$2,125 for black sea bass. The averages are additive so for vessels that land all three species the average gross revenue reduction is estimated at \$17,560. The number of vessels landing summer flounder, scup, and black sea bass in 2005 was determined by NMFS to be 756, 448, and 574, respectively.

In the NMFS analysis, a price-quantity equation was used to predict how reductions in summer flounder landings affect ex-vessel prices. The average nominal ex-vessel price per pound for summer flounder was estimated to be \$1.79 in 2006 (assuming the entire TAL will be landed) and was estimated to increase to \$1.93 in 2007 under Alternative 6 in response to reduced landings levels. To compare projected summer flounder revenues under Alternative 6 to 2006 levels, the 2007 average ex-vessel price per pound (\$1.93) was converted to its 2006 inflation adjusted value of \$1.88. For scup and black sea bass, it was assumed

that the price-quantity relationships will remain constant under Alternative 6. Although to account for the effect of rising seafood prices, inflation adjusted 2006 average ex-vessel prices per pound were calculated for both scup (\$0.77) and black sea bass (\$2.60) in the analysis.

For the analysis of the alternative recreational harvest limits, the 2007 recreational harvest limits were compared with previous years through 2005, the most recent year with complete recreational data. Landings statistics from the last several years show that recreational summer flounder landings have generally exceeded the recreational harvest limits, ranging from a 5–percent overage in 1993 to a 122–percent overage in 2000. In 2003, recreational landings were 11.64 million lb (5,280 mt), 25 percent above the recreational harvest limit of 9.28 million lb (4,209 mt). In 2004, recreational landings were 10.8 million lb (4,899 mt), 4 percent below the recreational harvest limit of 11.21 million lb (5,085 mt). In 2005, recreational landings were 10.02 million lb (4,545 mt), 2 percent below the recreational harvest limit of 11.98 million lb (5,085 mt).

The Alternative 1 summer flounder 2007 recreational harvest limit (adjusted for RSA) of 7.73 million lb (3,506 mt), would be a 17–percent decrease from the 2006 recreational harvest limit of 9.29 million lb (4,214 mt), and would represent a 23–percent decrease from 2005 landings. The 2007 summer flounder Alternative 2 recreational harvest limit of 2.03 million lb (921 mt) would be 78 percent lower than the 2006 recreational harvest limit, and would represent an 80–percent decrease from 2005 recreational landings. The 2007 summer flounder Alternative 3 (status quo) recreational harvest limit of 9.21 million lb (4,178 mt) would be a less than 1–percent decrease from the 2006 recreational harvest limit (due to the preliminary summer flounder RSA for 2005) and would represent an 8–percent decrease from 2005 recreational landings. The 2007 summer flounder Alternative 5 recreational harvest limit of 5.49 million lb (2,490 mt) would be 41 percent lower than the 2006 recreational harvest limit, and would represent a 45–percent decrease from 2005 recreational landings. The 2007 summer flounder Alternative 6 recreational harvest limit of 5.04 million lb (2,286 mt) would be 46 percent lower than the 2006 recreational harvest limit, and would represent a 50–percent decrease from 2005 recreational landings.

Scup recreational landings declined over 89 percent for the period 1991 to

1998, then increased by 517 percent from 1998 to 2000. The number of fishing trips also declined over 73 percent from 1991 to 1998, and then increased by 127 percent from 1998 to 2000. The decrease in the recreational fishery in the 1990s occurred both with and without any recreational harvest limits, and it is perhaps a result of the stock being over-exploited and at a low biomass level during that period. In addition, it is possible that party/charter boats may have targeted other species that were relatively more abundant than scup (e.g., striped bass), thus accounting for the decrease in the number of fishing trips in this fishery in the 1990s. In 2003, recreational landings were 8.43 million lb (3,824 mt), 110 percent above the recreational harvest limit of 4.01 million lb (1,819 mt) and the highest for the 1991 through 2005 period. In 2004 and 2005, recreational landings were 4.41 million lb (2,000 mt) and 2.38 million lb (1,080 mt), 10 percent above, and 40 percent below, respectively, the recreational harvest limit of 4.01 million lb (1,819 mt) for 2004 and 3.96 million lb (1,796 mt) for 2005.

Under Alternative 1, the scup recreational harvest limit for 2007 would be 3.59 million lb (1,628 mt), 13.5 percent below the 2006 recreational harvest limit of 4.15 million lb (1,882 mt), and 51 percent above the 2005 recreational landings. The scup recreational harvest limit of 2.74 million lb (1,243 mt) for 2007 under Alternatives 2, 5, and 6 would be 34 percent less than the 2006 recreational harvest limit, and 15 above 2005 recreational landings. The Alternative 3 scup recreational harvest limit of 3.65 million lb (1,656 mt) for 2007 would be a 12-percent decrease from the 2006 recreational harvest limit and would represent a 53-percent increase over 2005 recreational landings.

Black sea bass recreational landings have shown a slight upward trend from 1991 through 1997, and increased substantially in 2002 to 4.35 million lb (1,973 mt). In 2003, 2004, and 2005, recreational landings were 3.29 million lb (1,492 mt), 1.67 million lb (757 mt), and 1.77 million lb (802 mt), respectively.

Under Alternative 1, the black sea bass recreational harvest limit for 2007 would be 3.25 million lb (1,474 mt), 19 percent below the 2006 recreational harvest limit of 3.99 million lb (1,810 mt), and 82 percent above the 2005 recreational landings. The black sea bass recreational harvest limit of 2.48 million lb (1,125 mt) for 2007 under Alternatives 2, 5, and 6 would be 38 percent less than the 2006 recreational harvest limit, and 40 percent above 2005

recreational landings. The Alternative 3 black sea bass recreational harvest limit of 4.01 million lb (1,819 mt) for 2007 would be a less than 1-percent increase from the 2006 recreational harvest limit and would represent a 127-percent increase over 2005 recreational landings.

If Alternative 1, 2, 5, or 6 is implemented, more restrictive summer flounder management measures (i.e., lower possession limits, larger minimum size limits, and/or shorter open seasons) may be required to prevent anglers from exceeding the 2007 recreational harvest limit. If 2007 scup and black sea bass landings are similar to those for 2006, more restrictive limits (i.e., lower possession limits, greater minimum size limits, and/or shorter seasons) may not be necessary to prevent anglers from exceeding this recreational harvest limit under any of the alternatives.

While it is likely that proposed management measures under Alternative 6 would restrict the recreational fishery for 2007, and that these measures may cause some decrease in recreational satisfaction, there is neither behavioral or demand data available to estimate how sensitive party/charter boat anglers might be to proposed fishing regulations. Currently, the market demand for this sector is relatively stable. Summer flounder recreational trips averaged 5.1 million for the 1991 to 2005 period, ranging from 3.8 million in 1992 to 6.1 million in 2001. For 2002 through 2005, summer flounder recreational fishing trips were estimated at 4.6 million, 5.6 million, 5.1 million, and 5.8 million per year, respectively. Scup recreational trips have shown a slight upward trend from the early 1990s to the early 2000s, ranging from approximately 199,000 trips in 1997 to 972,000 trips in 2003, with an average of approximately 454,000 trips per year for the 1991 through 2005 period. For 2004 and 2005, scup recreational fishing trips were estimated at approximately 568,000 and 458,000, respectively. Black sea bass recreational fishing trips have averaged approximately 247,000 per year for the 1991 through 2005 period, ranging from approximately 136,000 trips in 1999, to 311,000 trips in 1997. In 2005, recreational trips for black sea bass numbered approximately 166,000, the third lowest value in the 1991 through 2005 time series.

It is unlikely that these measures would result in any substantive decreases in the demand for party/charter boat trips. It is likely that party/charter anglers would target other species when faced with potential

reductions in the amount of summer flounder, scup, and black sea bass that they are allowed to catch. The Council intends to recommend specific measures to attain the 2007 summer flounder recreational harvest limit in December 2006, and will provide additional analysis of the measures upon submission of its recommendations in early 2007.

In summary, the proposed specifications represent substantially lower 2007 TALs for summer flounder, scup, and black sea bass. The proposed specifications were chosen because they allow for the maximum level of commercial and recreational landings, while allowing the NMFS to meet its legal requirements under the Magnuson-Stevens Act and while achieving the objectives of the FMP. The summer flounder TAL was chosen to allow for rebuilding of the stock by 2010 and to acknowledge the pattern of fishing mortality rate underestimation. Due to the level of uncertainty in the scup and black sea bass stock assessments and to the recent stock indices, the scup and black sea bass TALs were selected as risk-averse management alternatives intended to constrain 2007 landings to recent (2005) levels. The proposed 2007 adjusted commercial quotas for summer flounder, scup, and black sea bass for the year 2007 are 46 percent, 34 percent, and 38 percent lower, respectively, relative to the adjusted quotas for year 2006. The proposed recreational harvest limits (adjusted for RSA) would be 45-, 25-, and 38-percent lower than the adjusted recreational harvest limits for year 2006.

The proposed commercial scup possession limits for Winter I (30,000 lb (13.6 mt) per trip, to be reduced to 1,000 lb (454 kg) upon attainment of 80 percent of the Winter I quota) and Winter II (2,000 lb (907 kg) per trip) and the Winter II possession limit-to-rollover amount ratio were chosen as an appropriate balance between the economic concerns of the industry (i.e., landing enough scup to make the trip economically viable) and the need to ensure the equitable distribution of the quota over each period. The proposed Winter I possession limit specifically coordinates with the 30,000-lb (13.6-mt) landing limits per 2-week period recommended by the Commission (beginning in 2005) to be implemented by most states, while satisfying concerns about enforcement of possession limits. Continuation of these possession limits and ratios is not expected to result in changes to the economic or social aspects of the fishery relative to 2006.

The commercial portion of the summer flounder RSA preliminary

allocation in the proposed specifications, if made available to the commercial fishery, could be worth as much as \$397,280 dockside, based on a 2005 ex-vessel price of \$1.70/lb (or \$439,344 based on NMFS' inflation adjusted summer flounder price estimate of \$1.88/lb). Assuming an equal reduction in fishing opportunity among all active vessels (i.e., the 750 vessels that landed summer flounder in 2005), this could result in a per-vessel potential revenue loss of approximately \$530 (or \$581 based on NMFS' 2006 summer flounder price and 2005 active vessel estimate). Changes in the summer flounder recreational harvest limit as a result of the RSA are not expected to be significant as the deduction of RSA from the TAL would result in a relatively marginal decrease in the recreational harvest limit from 5.2 million lb (2,359 mt) to 5.0 million lb (2,268 mt). Because this is a marginal change, it is unlikely that the recreational possession, size, or seasonal limits would change as the result of the RSA allocation.

The commercial scup RSA allocation, if made available to the commercial fishery, could be worth as much as \$210,600 dockside, based on a 2005 ex-vessel price of \$0.75/lb (or \$216,216 based on NMFS' inflation adjusted scup price estimate of \$0.77/lb). Assuming an

equal reduction in fishing opportunity for all active commercial vessels (i.e., the 439 vessels that landed scup in 2005), this could result in a loss of potential revenue of approximately \$480 per vessel (or \$482 based on NMFS' 2006 scup price and 2005 active vessel estimate). The deduction of RSA from the TAL results in a relatively marginal decrease in the recreational harvest limit from 2.64 million lb (1,197 mt) to 2.56 million lb (1,162 mt). It is unlikely that scup recreational possession, size, or seasonal limits would change as the result of the RSA allocation.

The commercial portion of the black sea bass RSA, if made available to the commercial fishery, could be worth as much as \$186,690 dockside, based on a 2005 ex-vessel price of \$2.54/lb (or \$191,100 based on NMFS' inflation adjusted scup price estimate of \$2.60/lb). Assuming an equal reduction in fishing opportunity for all active commercial vessels (i.e., the 563 vessels that caught black sea bass in 2005), this could result in a loss of approximately \$332 per vessel (or \$333 based on NMFS' 2006 black sea bass price and 2005 active vessel estimate). The deduction of RSA from the TAL would result in a relatively marginal decrease in recreational harvest from black sea bass recreational harvest limit from 2.55

million lb (1,157 mt) to 2.48 million lb (1,122 mt). It is unlikely that the black sea bass possession, size, or seasonal limits would change as the result of this RSA allocation.

Overall, long-term benefits are expected as a result of the RSA program. The results of these projects will provide needed information on high-priority fisheries management issues related to Mid-Atlantic fisheries management. If the total amount of quota set-aside is not awarded for any of the three fisheries, the unused set-aside amount will be restored to the appropriate fishery's TAL. It should also be noted that fish harvested under the RSAs would be sold, and the profits would be used to offset the costs of research. As such, total gross revenue to the industry would not decrease if the RSAs are utilized.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

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