

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 001121328-0328-01; I.D. 111500C]

RIN 0648-AN71

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 2001 Specifications

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes specifications for the 2001 summer flounder, scup, and black sea bass fisheries. The implementing regulations for the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) require NMFS to publish specifications for the upcoming fishing year for each fishery and to provide an opportunity for public comment. This proposed rule requests comment on proposed measures for summer flounder and black sea bass and on four alternative management options for the 2001 scup fishery. The intent is to specify the allowed harvest in 2001 and other measures to address overfishing of the summer flounder, scup, and black sea bass resources.

DATES: Public comments must be received (see **ADDRESSES**) no later than 5 p.m. eastern standard time on December 19, 2000.

ADDRESSES: Written comments on the proposed specifications should be sent to Patricia A. Kurkul at the same address. Mark on the outside of the envelope, "Comments—2001 Summer Flounder, Scup, and Black Sea Bass Specifications." Comments may also be sent via facsimile (fax) to (978) 281-9371. Comments will not be accepted if submitted via e-mail or the Internet.

Send comments on any ambiguity or unnecessary complexity arising from the language used in this proposed rule to Patricia A. Kurkul at the same address.

Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees; the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis (EA/RIR/IRFA); and the Essential Fish Habitat Assessment are available from Patricia A. Kurkul, Regional

Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298. The EA/RIR/IRFA is accessible via the Internet at <http://www.nero.nmfs.gov/ro/doc/nero.html>.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:**Background**

The regulations implementing the FMP at 50 CFR part 648, subparts A, G, H, and I outline the process for specifying annually the catch limits for the summer flounder, scup and black sea bass commercial and recreational fisheries, as well as other management measures (e.g., mesh requirements, minimum fish sizes, seasons, and area restrictions) for these fisheries. These measures are intended to achieve the annual targets set forth for each species in the FMP, specified either as a fishing mortality rate (F) or an exploitation rate.

The FMP is a joint plan involving the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission). 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, is required to review available information and to recommend catch limits and other management measures necessary to achieve the target F or exploitation rate for each fishery, as specified in the FMP. The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Board (Board) then consider the Monitoring Committee's recommendations and any public comment in making their recommendations. The Council and Board made their annual recommendations at a joint meeting held August 14-17, 2000. In addition to recommending annual measures, the Council proposes modifying the current trip limit provisions in the FMP so that they are possession limits to enhance at-sea enforcement. For black sea bass and scup, the Council also approved a motion that the possession limit would be the maximum amount that could be landed in a 24-hour period (calendar day).

NMFS notes that the Council included a recommendation that 2 percent of the 2001 Total Allowable Landings (TAL) for summer flounder, scup and black sea bass be set aside for experimental fishing and data collection

purposes. This deduction was to occur no later than December 31, 2000, if the Council and Commission approved a specific project or projects that would use the set-aside allocation. However, the Council does not expect to complete its work until February 2001 on the framework action that would have authorized the provision for the set-aside allocation. Although this proposed rule includes a statement indicating the amount of the 2-percent research set-aside, NMFS has not made the deduction in the allocations for 2001, because the legal authority for doing so will not be in place until that framework action is implemented.

Scup

Scup was most recently assessed at the 31st Northeast Regional Stock Assessment Review Committee (SARC 31) in June 2000, which determined that scup are overfished and that overfishing is occurring. SARC 31 concluded that the scup spawning stock biomass (SSB) is low. The 1998-2000 Northeast Fisheries Science Center (NEFSC) spring survey 3-year average SSB was 0.10 SSB kg/tow, which is less than 5 percent of the index that defines the stock as overfished (2.77 kg/tow; the maximum NEFSC spring survey 3-year average of SSB). Indices of recruitment have generally trended downward in recent years, except for a moderate 1994 year class, a moderate to strong 1999 year class, and a strong 1997 year class. Due to the 1997 and 1999 year classes, spawning stock abundance has been increasing since 1998. However, the overall stock has a highly truncated age structure (i.e., there are fewer older fish than there would be in a healthy stock), which likely reflects prolonged high fishing mortality rates. SARC 31 also noted that F should be reduced substantially and immediately, and that a reduction in fishing mortality from discards would have the most impact on rebuilding the stock, especially considering the importance of allowing recent year classes and all future good recruitment to contribute to rebuilding of the stock size and age structure.

The FMP established a target exploitation rate for scup in 2001 of 33 percent. The total allowable catch (TAC) associated with that rate is allocated 78 percent to the commercial sector and 22 percent to the recreational sector by the FMP. Scup discard estimates are deducted from both TACs to establish TALs for both sectors (TAC - discards = TAL). The commercial TAL is then allocated with differing percentages to three quota periods—Winter I (January-April)—45.11 percent; Summer (May-

October)—30.95 percent; and Winter II (Nov–December)—15.94 percent.

The proposed scup specifications for fishing year 2001 are based on the exploitation rate 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 Fishery Conservation and Management Act (Magnuson-Stevens Act), the Council prepared Amendment 12, which proposed to maintain the existing rebuilding schedule. On April 28, 1999, NMFS disapproved that rebuilding plan for scup because it did not comply with the Magnuson-Stevens Act. Although the exploitation rate portion of the overfishing definition (converted to an F) was conceptually sound, though somewhat risk-prone, NMFS determined that the combination of that exploitation rate and the general decline of the stock made the risk that the rebuilding plan would not achieve stock rebuilding goals in the long-term unacceptable. The proposed scup specifications for 2001 are based on the exploitation rate that was found to be conceptually sound. NMFS believes that the long-term risks that were associated with the disapproved rebuilding plan do not apply to the proposed specifications since 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 that exploitation rate is a more cautious approach to

managing this resource than not setting any specifications until the Council submits, and NMFS approves, a revised rebuilding plan that meets all Magnuson-Stevens Act requirements.

Recommended Scup Harvest Limits

In making its recommendation to the Council, the Scup Monitoring Committee reviewed the available data. Deterministic projections of the NEFSC spring survey SSB, based on year 2000 index values and mean recruitment from the 1993 to 2000 surveys, indicated that the 2001 spring survey SSB could increase to 0.24 kg/tow if the F on ages 0–4 scup was 1.0. Assuming an F of 1.0 for 1999, and an average SSB that is at least equal to the 2000 value of 0.17 kg/tow in 2001 (average of 0.11 for 1999, 0.15 for 2000, and the projected 0.24 for 2001), then the target scup exploitation rate of 33 percent could be achieved with a 2001 TAL of 5.0 million lb (2.27 million kg), which is the level recommended by the Scup Monitoring Committee. Then, using the same proportion of discards to landings as assumed for 2000 (57 percent), the Scup Monitoring Committee recommended a 2001 TAC of 7.85 million lb (3.56 million kg). Based on the sector allocation specified in the FMP (commercial—78 percent; recreational—22 percent), this results in a commercial TAC of 6.123 million lb (2.78 million kg) and a recreational TAC of 1.727 million lb (0.78 million kg). The Scup Monitoring Committee assumed that the proportion of

commercial discards to catch would remain the same in 2001 as in 2000 (45.1 percent), and estimated commercial discards of 2.76 million lb (1.25 million kg), resulting in a commercial quota of 3.36-million lb (1.52 million kg). Similarly, assuming that the proportion of recreational discards to catch would remain the same as in 2000 (4.96 percent), then recreational discards would be 0.09 million lb (0.039 million kg), resulting in a recreational harvest limit of 1.64 million lb (0.74 million kg).

If a research quota set-aside of 2 percent were implemented for 2001 it would be deducted from the overall TAL, and the resulting commercial quota and recreational harvest limit would be 3.29 million lb (1.49 million kg) and 1.61 million lb (0.73 million kg), respectively.

The commercial allocation recommended by the Scup Monitoring Committee is shown, by period, in Table 1. These allocations are preliminary and would be subject to downward adjustment, as required by the FMP, for any landings in excess of quota allocation in 2000 that are found when final 2000 data are available (a quota overage). Since the data collection for all periods in 2000 has not yet been finalized, this table shows the allocations prior to any deductions for overages. As of October 7, 2000, the Winter I allocation has been exceeded by 259,991 lb (117,930 kg) and the Summer allocation has been exceeded by 570,326 lb (258,695 kg).

TABLE 1.—PERCENT ALLOCATION OF COMMERCIAL SCUP QUOTA BASED ON THE SCUP MONITORING COMMITTEE RECOMMENDATION

Period	Percent	TAC ¹	Discards ²	Quota Allocation		Possession Lb	Limits Kg
				Lb	Kg ³		
Winter I	45.11	2,762,085 (1,252,860)	1,246,840 (565,557)	1,515,245	687,303	⁴ 10,000	4,536
Summer	38.95	2,384,908 (1,081,776)	1,076,577 (488,327)	1,308,331	593,449	*n/a
Winter II	15.94	976,006 (442,709)	440,581 (199,844)	535,425	242,865	2,000	907
Total ⁵	100.00	6,122,999 (2,777,346)	2,763,998 (1,253,728)	3,359,001	1,523,617

¹ Total allowable catch, in pounds (kilograms in parentheses).

² Discard estimates, in pounds (kilograms in parentheses).

³ Kilograms are as converted from pounds.

⁴ The Winter I landing limit will drop to 1,000 lb (454 kg) upon attainment of 75 percent of the seasonal allocation.

⁵ Totals subject to rounding error.

*n/a—Not applicable.

At its August 2000 meeting, the Council reviewed the recommendations of the Scup Monitoring Committee and did not accept its TAL and TAC recommendations. Rather than relying

upon a 2001 SSB estimate of 0.17 kg/tow, which is based upon a 3-year average, the Council instead selected an SSB estimate of 0.21 in 2001, using the rationale that this value is higher than

the 0.15 SSB value estimated for 2000, but slightly less than the 0.24 projected for 2001. Then, assuming an F of 1.0 for 1999, and an SSB estimate of 0.21 kg/tow in 2001, the target scup exploitation

rate of 33 percent could be achieved if landings (TAL) do not exceed 6.22 million lb (2.82 million kg) in 2001. Using an assumption different from that used by the Scup Monitoring Committee—that the amount of scup (rather than the proportion) calculated to be discarded in 2001 would remain the same as that calculated for 2000 (equating to 2.15 million lb (0.97 million kg)), the Council recommended a 2001 TAC of 8.37 million lb (3.80 million kg). This would result in a commercial TAC (78 percent) of 6.53

million lb (2.96 million kg) and a recreational TAC (22 percent) of 1.84 million lb (0.83 million kg). Using the same value for scup discards as in 2000, the commercial discards would be 2.08 million lb (0.94 million kg), and the commercial quota would be 4.45 million lb (2.02 million kg). Similarly, recreational discards would be 0.07 million lb (0.03 million kg), and the recreational harvest limit would be 1.77 million lb (0.80 million kg).

If a research quota set-aside of 2 percent were implemented, it would be

deducted from the total TAL and the resulting commercial quota and recreational harvest limit would be 4.35 million lb (1.97 million kg) and 1.74 million lb (0.79 million kg), respectively.

The Council's proposed commercial scup allocation is shown in Table 2. These allocations would be subject to the same downward adjustment for any overages as would the Scup Monitoring Committee allocation recommendations, as explained previously.

TABLE 2.—PERCENT ALLOCATIONS OF COMMERCIAL SCUP QUOTA BASED ON MID-ATLANTIC COUNCIL RECOMMENDATION

Period	Percent	TAC ¹	Discards ²	Quota Allocation		Possession Lb	Limits Kg
				Lb	Kg ³		
Winter I	45.11	2,945,502 (1,336,057)	940,543 (426,623)	2,004,959	909,434	⁴ 10,000	4,536
Summer	38.95	2,543,280 (1,153,612)	812,108 (368,365)	1,731,172	785,246	*n/a	
Winter II	15.94	1,040,818 (472,107)	332,349 (150,751)	708,469	321,356	2,000	907
Total ⁵	100.00	6,529,600 (2,961,776)	2,085,000 (945,739)	4,444,600	2,016,036		

¹ Total allowable catch, in pounds (kilograms in parentheses).

² Discard estimates, in pounds (kilograms in parentheses).

³ Kilograms are as converted from pounds.

⁴ The Winter I possession limit will drop to 1,000 lb (454 kg) upon attainment of 75 percent of the seasonal allocation.

⁵ Totals subject to rounding error.

*n/a—Not applicable.

The Council based its recommended 40-percent increase in the scup quota from 2000 to 2001 on assumptions that scup stock biomass would increase from the estimated 2000 level and that the absolute amount of scup discarded (2.15 million lb (0.97 million kg)) would remain the same in 2001, rather than be proportional to landings. NMFS is concerned about these assumptions. The resultant quota recommendation may be risky and inconsistent with the best available scientific information, which indicates that scup biomass is very low—less than 5 percent of the biomass level that defines the stock as overfished. The Scup Monitoring Committee used a more conservative assumption that scup biomass would be no greater in 2001 than in 2000 in developing its quota recommendation.

The Council also assumed that the amount of discards would remain the same in 2001 as in 2000. This assumption may be unrealistic. Historically, the discard rate in the scup fishery has increased with the appearance of large year classes or has, at least, remained proportional to landings. Using the Council's rationale, scup discards as a proportion of scup catch were assumed to decline. The Scup Monitoring Committee assumed a

constant proportion of discards to catch, as assumed in 2000, to establish its 2001 commercial quota and recreational harvest limit recommendations.

Also, although both the Council and Scup Monitoring Committee assumed an F of 1.0 in their quota recommendations, SARC 31 noted that F is at least 1.0 and possibly greater. More recent analysis by the NEFSC indicates that F is greater than 1.0, and could be as high as 1.95 for the 1998 year class. This may indicate the need for a more conservative quota recommendation. For these reasons, NMFS is seeking public comment on both the Monitoring Committee's and the Council's 2001 scup quota recommendations.

To enhance at-sea enforcement, the Council recommended changing the current scup trip limits to possession limits with the additional provision that these quantities be the maximum allowed to be landed within a 24-hour period (calendar day). To achieve the recommended commercial quotas, the Council recommended, and these specifications propose, a Winter I (January–April) possession limit of 10,000 lb (4,536 kg) with a reduction to 1,000 lb (454 kg) for the remainder of that period when 75 percent of the

quota allocation is projected to have been harvested. The Council also recommended, and these specifications propose, decreasing the Winter II period (November–December) possession limit from 4,000 lb (1,814 kg) to 2,000 lb (907 kg). The Council also recommended increasing the thresholds that specify the amount of scup that may be retained on board a vessel that is using mesh smaller than 4.5 inches (11 cm). In order for a vessel to possess scup in excess of the threshold, mesh smaller than 4.5 inches (11 cm) must be stowed and unavailable for use. The Council recommended increasing the threshold amount from 200 lb (91 kg) to 500 lb (227 kg) for the period November 1–April 30. The threshold would remain at 100 lb (45 kg) for the period May 1–October 31. The Council's recommendation to increase the threshold for the November–April period is intended to enable vessels to fish with smaller mesh for a longer period of time, but could potentially increase bycatch and subsequent discard of undersized scup. If discards are converted to landings due to the change in the mesh threshold, without additional discards occurring when the 500-lb (227 kg) threshold is reached, as the Council and industry believe would

occur, then the proposed change could be acceptable. Therefore, NMFS is specifically seeking public comments on the recommendation to increase the November–April threshold level from 200 lb (91 kg) to 500 lb (227 kg).

Gear Restricted Areas (GRAs)

As noted previously, SARC 31 emphasized the need to reduce fishing mortality from scup discards. The Scup Monitoring Committee took heed of this advice, particularly considering the importance of the 1999 year class to future recruitment. Therefore, the Scup Monitoring Committee recommended that the Council maintain GRAs. The GRAs seasonally close areas to specified small-mesh fisheries using trawl gear with codend mesh sizes less than 4.5 inches (11 cm), to reduce discards of scup.

GRAs were originally established by the Council in the 2000 specifications for the scup fishery to reduce scup bycatch in small-mesh fisheries (65 FR 33486, May 24, 2000). The GRAs established in the 2000 specifications became effective November 1, 2000. There are two GRAs: the Northern GRA (November–December), and the Southern GRA (January–April). The Scup Monitoring Committee reviewed a proposal to modify the existing GRAs that was developed by the Council staff. The Council staff analysis indicated that the modification would decrease scup discards by 61 percent (as opposed to 71 percent under the existing GRAs), yet decrease revenues by only \$7.2 million (as opposed to \$13.7 million under the existing GRAs). The Committee recommended to the Council that the existing GRAs be modified consistent with the staff analysis. The Council adopted this recommendation and requested NMFS to make the modification effective November 1, 2000. NMFS has published a proposed rule (65 FR 65818, November 2, 2000) that proposes to: (1) Modify the GRAs as recommended by the Council; (2) exempt the Atlantic mackerel small-mesh fishery from the GRA restrictions; (3) exempt the *Loligo* squid small-mesh fishery from the GRA restriction from November 1–December 31, 2000; and (4) modify the procedure and criteria for exempting small-mesh fisheries from the requirements of the GRAs. Further information concerning the modification of the GRAs may be found in the preamble to the proposed rule and is not repeated here. Subsequent text of this proposed rule refers to these modified GRAs as the GRAs recommended by the Council.

Scup Management Options

While SAW 31 concluded that a reduction in fishing mortality from discards would provide the most benefit to rebuilding the scup stock, the issue is complicated by a lack of sufficient sea sampling (observer) data to characterize the sources of the discards. Although NMFS does not have a precise estimate of scup discards, it is known that discards contribute to the mortality of small scup, and that levels of scup discards may have approached or exceeded scup landings in recent years. Given the relatively small amount of observer data, it has been difficult to determine exactly when, where, and in what fisheries the discards have occurred, and what the magnitudes of the scup discards are. In addition, because scup are migratory and fishing operations are mobile, it is difficult to define GRAs that will be equally effective over time (*i.e.*, fishing effort may change over time). All of the uncertainties have made it difficult to devise GRAs that are expected to reduce scup bycatch and discards sufficiently without also significantly impacting small-mesh fisheries.

While NMFS has proposed to modify the GRAs as recommended by the Council, NMFS also recognizes that GRAs are not the only way to address scup discard mortality. Therefore, through this proposed rule, NMFS is seeking comments on four possible options to meet the regulatory requirement at 50 CFR 648.120 that the Regional Administrator implement measures to ensure that the target exploitation rate will not be exceeded. The four options vary in terms of the TAC quota recommendation they incorporate, the discard deduction made to calculate TALs, the size and location of the GRAs, and the fisheries to be exempted from the GRAs. In general, if GRAs are used to reduce scup bycatch, the discard deduction made in establishing TAL is lower than it would be without GRAs, and the resultant quotas are higher. In other words, while scup need to be rebuilt, there are several ways to go about achieving that, but all involve reducing fishing mortality on scup.

The four options for scup management in 2001 on which NMFS is seeking comments are:

Option I—(This option is reflected in the regulatory text of this proposed rule as the recommendation of the Council and does not necessarily reflect NMFS' preferred alternative.) This option includes: (1) The Council's proposed quota for scup (a TAC of 8.37 million lb (3.80 million kg), a discard deduction of

2.15 million lb (0.97 million kg), and a TAL of 6.22 million lb (2.82 million kg)); (2) the GRAs recommended by the Council; and (3) exemptions for Atlantic herring, Atlantic mackerel and *Loligo* squid small-mesh fisheries.

Under this option, the commercial TAC would be 6.53 million lb (2.96 million kg) minus discards of 2.08 million lb (0.94 million kg), resulting in a commercial quota of 4.45 million lb (2.02 million kg). The recreational TAC would be 1.84 million lb (0.83 million kg) minus discards of 0.07 million lb (0.03 million kg), resulting in a recreational harvest limit of 1.77 million lb (0.80 million kg).

Option II—This option includes: (1) The Scup Monitoring Committee's quota recommendation for 2001 (a TAC of 7.85 million lb (3.56 million kg), a discard deduction of 2.85 million lb (1.29 million kg), and a TAL of 5.0 million lb (2.27 million kg)); (2) GRAs as recommended by the Council; and (3) exemptions for the Atlantic herring and Atlantic mackerel small-mesh fisheries.

Under this option, the commercial TAC would be 6.12 million lb (2.78 million kg) minus discards of 2.76 million lb (1.25 million kg), resulting in a commercial quota of 3.36 million lb (1.52 million kg). The recreational TAC would be 1.73 million lb (0.78 million kg) minus discards of 0.09 million lb (0.04 million kg), resulting in a recreational harvest limit of 1.64 million lb (0.74 million kg).

Option III—This option includes: (1) The temporary suspension of GRA restrictions for 2001; and (2) a TAL established at a level that is consistent with the SARC conclusion that commercial discards are approximately equal to commercial landings (a TAC of 7.85 million lb (3.56 million kg), a discard deduction of 3.15 million lb (1.43 million kg), and a TAL of 4.70 million lb (2.13 million kg).

Under this option, the commercial TAC would be 6.12 million lb (2.78 million kg) minus discards of 3.06 million lb (1.39 million kg), resulting in a commercial quota of 3.06 million lb (1.39 million kg). The recreational TAC would be 1.73 million lb (0.78 million kg) minus discards of 0.09 million lb (0.04 million kg), resulting in a recreational harvest limit of 1.64 million lb (0.74 million kg).

Option IV—This option includes: (1) Modified GRAs that are shorter in duration and that exclude the Hudson Canyon area, but incorporate other areas of high scup concentration and small-mesh fishing activities; (2) the Monitoring Committee's quota recommendation for 2001 (a TAC of 7.85 million lb (3.56 million kg), a

discard deduction of 2.85 million lb (1.29 million kg), and a TAL of 5.0 million lb (2.27 million kg); and (3) exemptions for the Atlantic herring and Atlantic mackerel small-mesh fisheries.

Under this option, the commercial TAC would be 6.12 million lb (2.78 million kg) minus discards of 2.76 million lb (1.25 million kg), resulting in a commercial quota of 3.36 million lb (1.52 million kg). The recreational TAC would be 1.73 million lb (0.78 million kg) minus discards of 0.09 million lb (0.04 million kg), resulting in a recreational harvest limit of 1.64 million lb (0.74 million kg).

The more southerly GRA under this option encompasses a large portion of the scup stock during the winter months, and would impact a substantial amount of coincident fishing effort directed at *Loligo* squid, according to vessel logbook reports. Therefore, the GRA would be expected to reduce scup discards in the winter, although a quantitative estimate of the reduction is not possible. The coordinates and time period of the modified GRAs for this option would be:

**NORTHERN GEAR RESTRICTED AREA I
(NOVEMBER 1–DECEMBER 31)**

Point	N. lat.	W. long.
NGA 1	41° 00"	71° 00"
NGA 2	41° 00"	71° 30"
NGA 3	40° 00'	72° 40"
NGA 4	40° 00'	72° 05"
NGA 1	41° 00"	71° 00"

**SOUTHERN GEAR RESTRICTED AREA
(JANUARY 1–MARCH 15)**

Point	N. lat.	W. long.
SGA 1	39° 20"	72° 50"
SGA 2	39° 20"	72° 25"
SGA 3	38° 00"	73° 55"
SGA 4	37° 00"	74° 40"
SGA 5	36° 30"	74° 40"
SGA 6	36° 30"	75° 00"
SGA 7	37° 00"	75° 00"
SGA 8	38° 00"	74° 20"
SGA 1	39° 20"	72° 50"

The four options for managing scup are significantly different from one another. While Option I may alleviate much of the negative economic impacts, NMFS is concerned that a 40-percent scup quota increase in combination with an exemption for the *Loligo* squid small-mesh fishery from the GRAs could result in an unacceptably high level of fishing mortality. Option II would incorporate the Scup Monitoring Committee's quota recommendation and the GRAs recommended by the Council, without exempting the *Loligo* squid

small-mesh fishery. The Scup Monitoring Committee's quota recommendations appear to be more risk-averse than the Council's recommendation, with regard to discard assumptions and stock biomass. However, Option II would have greater negative economic impacts on small-mesh fisheries than would Option I. Suspending the GRAs for 2001 and reducing the scup quota to reflect more accurately scup discards, as in Option III, could reduce negative economic impacts on small-mesh fisheries, but would likely impose greater impacts on vessels that are more dependent on scup than would Options I or II. Option IV, which would further modify the GRAs, would allow small-mesh fishing in the Hudson Canyon area, but would restrict small-mesh fishing in areas farther south, albeit for a shorter duration than under the existing GRAs or the Council's proposed GRAs. A more detailed discussion of the analysis of these options is found in the Classification section of this proposed rule.

When it was discussing the annual specifications, the Council noted its interest in obtaining more information about scup discard through experimental fisheries. NMFS notes that it has received one application for an experimental fishing permit (EFP) to conduct gear research in the small-mesh fisheries of the Mid-Atlantic region, particularly with regard to mesh selectivity in retaining scup. In order to issue an EFP, NMFS must publish a notification in the **Federal Register** to allow the public to comment. This notification should be published in the near future.

Summer Flounder

In order to comply with a Court Order issued by the U.S. Court of Appeals for the District of Columbia on April 25, 2000, NMFS implemented an emergency interim rule on August 2, 2000 (65 FR 47648), temporarily amending the FMP and its implementing regulations that establish the target to be achieved by the 2001 TAL for summer flounder. The emergency rule established a biomass target for 2001, rather than the F target specified in the FMP, and requires that the 2001 total quota be set at a level that will achieve, with at least a 50-percent probability, the biomass level that would have been achieved at the end of 2001 if the F target had been met in 1999 and 2000, and would be met in 2001.

As indicated in the emergency interim regulations, the most recent stock assessment specified a biomass target of

148.8 million lb (67.5 million kg) for December 31, 2001. The biomass target was calculated using the results of the summer flounder stock assessment completed by SARC 31 in June 2000. Although the F of 0.32 estimated for 1999 represents a significant decline from the F of 1.31 estimated for 1994, the assessment indicates that the stock is still overfished and overfishing is still occurring, relative to the FMP overfishing definitions. Spawning stock biomass (SSB) has increased steadily each year since 1989 to a current 64.8 million lb (29.4 million kg), the highest value in the time series. However, total stock biomass, which is the basis for the overfishing definition, has been stable since 1994. Projections based on assumptions about future landings, discards, and recruitment to the stock, indicate that if the 2000 TAL is not exceeded, total stock biomass will exceed the minimum biomass threshold in January 2001. Because of these assumptions, however, the forecast of stock biomass for January 2001 has a wide confidence interval. When the total stock biomass is above the stock's minimum biomass threshold, the stock will no longer be considered overfished, though it will remain below the level necessary to produce maximum sustainable yield (B_{msy}). Because the Magnuson-Stevens Act requires that stocks be managed to produce MSY, additional rebuilding of the stock still needs to be accomplished.

The SARC 31 assessment estimated the 1999 year class to be the smallest since 1988, at 19 million fish. However, the Council noted that the Virtual Population Analysis (VPA) tends to underestimate the size of recent year-classes. Year-class estimates for 1996, 1997 and 1998, based on the VPA, ranged from 32 to 38 million fish, which is about average.

The Summer Flounder Monitoring Committee reviewed the stock status and projections to meet the biomass target based on these data and recommended a 17.91-million lb (8.125 million kg) TAL for 2001, which would be divided into a commercial quota of 10.75 million lb (4.877 million kg) and a recreational harvest limit of 7.16 million lb (3.248 million kg). The Council adopted these recommendations, and NMFS proposes to implement them because they are consistent with the emergency interim rule. Based on the current status of the stock and the catches estimated for 1999 and 2000, this level has a 50-percent probability of achieving the 2001 biomass target of 148.8 million lb (6,751 mt).

Although the Council and the Board met jointly, the Board declined to make a TAL recommendation for summer flounder in August 2000. The Board is scheduled to make its TAL recommendation at a meeting on November 29, 2000.

Currently, the Commission has voluntary measures in place to decrease discards of sublegal fish in the commercial fishery, as well as to reduce regulatory discards occurring as a result of landing limits in the states. The Commission established a system whereby 15 percent of each state's quota could be voluntarily set aside each year for vessels to land an incidental catch allowance (implemented as trip limits) after the directed fishery has been closed. The intent of the voluntary

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.

The FMP requires that landings of summer flounder in excess of a state's commercial quota allocation in one year be deducted from that state's allocation for the following year. The emergency interim rule established a provision for the specification of quotas in 2001 whereby any under-harvest of an individual state's summer flounder commercial quota in 2000 would be applied to the final 2001 specifications for that state. This temporary measure was enacted because NMFS expected that some states might have been

prompted by the Court Order to reduce commercial harvests prior to the implementation of the emergency measures. Therefore, the measure was established to avoid penalizing states for their precautionary action.

The proposed commercial quotas, by state, for 2001 are presented in Table 3. These quotas are preliminary and subject to downward or upward adjustments if there are overages or underages in a state's 2000 harvest. As of October 13, 2000, the only known overages are 2,033 lb (922 kg) in Maine and 14,142 lb (6,415 kg) in New Jersey. These and additional adjustments will be necessary as 2000 landings data are finalized. NMFS will publish such adjustments in the **Federal Register**.

TABLE 3.—2001 SUMMER FLOUNDER STATE COMMERCIAL QUOTAS

State	Percent share	Directed		15 Percent as incidental catch		Total	
		lb	kg ¹	lb	kg ¹	lb	kg ¹
ME	0.04756	4,345	1,971	767	348	5,112	2,319
NH	0.00046	42	19	7	3	49	22
MA	6.82046	623,076	282,625	109,955	49,875	733,031	332,501
RI	15.68298	1,432,704	649,870	252,830	114,683	1,685,534	764,553
CT	2.25708	206,193	93,529	36,387	16,505	242,580	110,034
NY	7.64699	698,583	316,875	123,280	55,919	821,863	372,795
NJ	16.72499	1,527,896	693,049	269,628	122,302	1,797,524	815,352
DE	0.01779	1,625	737	287	130	1,912	867
MD	2.03910	186,280	84,496	32,873	14,911	219,153	99,407
VA	21.31676	1,947,372	883,322	343,654	155,880	2,291,026	1,039,203
NC	27.44584	2,507,289	1,137,299	442,462	200,699	2,949,751	1,337,998
Total	100.00	9,135,405	4,143,793	1,612,130	731,257	10,747,535	4,875,050

¹ Kilograms are as converted from pounds and do not add to the converted total due to rounding.

If a 2-percent research quota set-aside were implemented for the 2001 fishery, the total commercial quota would be 10,532,584 lb (4,777,500 kg).

Black Sea Bass

Black sea bass was last assessed by the 27th Northeast Regional Stock Assessment Review Committee (SARC 27), with results published December 1998. SARC 27 indicated that black sea bass are over-exploited and at a low biomass level. However, relative exploitation rates, based on the total commercial and recreational landings and the moving average of the log-transformed spring survey index (an index based on scientific sampling of the distribution and relative abundance), indicate a significant reduction in mortality in 1998 and 1999 relative to 1996 and 1997 levels. Relative exploitation rates in 1999 were nearly identical to those estimated for 1998.

Results of the spring trawl surveys conducted by the NEFSC indicate that

stock size of black sea bass has increased in recent years. The 3-year moving average for 1998–2000 is 42 percent higher than the value for 1997–1999. In addition, the recruitment index for 2000 (1.135) is the highest in the time series 1968–2000.

The FMP specifies a target exploitation rate of 37 percent for 2001. Although the exploitation rate for 2000 is uncertain, relative exploitation indices have declined in recent years. Based on length frequencies from the spring survey, and assuming length at full recruitment of 25 cm, the average F was 0.75 (48-percent exploitation rate) in 1998. If the 2001 biomass is at least equal to the 2000 value, and assuming an exploitation rate of 48 percent in 1998, the TAL could remain the same and the exploitation rate would be expected to drop to 35 percent, which is close to the 2001 target of 37 percent specified in the FMP.

The Black Sea Bass Monitoring Committee (BSB Monitoring Committee)

reviewed this information and recommended that the 2001 TAL remain the same as in 2000—6.173 million lb (2.80 million kg). Based on this TAL, the commercial quota would be 3.025 million lb (1.37 million kg) and the recreational harvest limit would be 3.148 million lb (1.43 million kg). The BSB Monitoring Committee also recommended that the minimum fish size, mesh size, and pot or trap gear vent size remain unchanged, and that the threshold triggering the minimum mesh-size requirement be reduced from 1,000 lb (454 kg) to 200 lb (91 kg). The BSB Monitoring Committee recommended the threshold reduction to discourage small-mesh directed fishing for black sea bass. In addition, the BSB Monitoring Committee recommended that the possession limits be reduced to 1,500 lb (680 kg) in Quarters 2 and 4, and to 1,000 lb (454 kg) in Quarter 3. The Quarter 1 possession limit would remain at 9,000 lb (4,082 kg). The BSB Monitoring Committee believed that

these possession limits would provide the best chance of allowing the quotas to be harvested, while allowing the fishery to remain open for the entire quarter, thus providing extended fishing opportunities.

At their August 2000 meeting, the Council and Board voted to adopt the BSB Monitoring Committee's recommendations for the black sea bass TAL and reductions in the possession limits for Quarters 2 and 3. The Council also voted to set the possession limit for Quarter 4 at 2,000 lb (907 kg), rather than at 1,500 lb (680 kg) as recommended by the BSB Monitoring Committee. Possession limit reductions were recommended to prevent quota overages in each quarter. In addition,

the Council recommended changing the current trip limits for black sea bass to possession limits to enhance at-sea enforcement, with the provision that these quantities be the maximum allowed to be landed within a 24-hour period (calendar day). The Council and Board recommended maintaining other measures at status quo, including minimum mesh size, minimum fish size, and sea bass pot vent size. The Council and Board did not accept the BSB Monitoring Committee's recommendation to drop the level of catch triggering the requirement to use the minimum mesh of 4.0 inches (10.2 cm) from 1,000 lb (454 kg) to 200 lb (91 kg).

The proposed commercial quota and corresponding possession limits are shown in Table 4. These allocations are preliminary and would be subject to a downward adjustment for any overages in a period's harvest in 2000, as provided in the FMP. Since the data collection for all periods in 2000 has not yet been finalized, this table shows the allocations prior to any deductions. As of October 7, 2000, the Quarter 2 commercial quota has been exceeded by 229,075 lb (103,907 kg) and the Quarter 3 commercial quota has been exceeded by 64,101 lb (29,076 kg). Additional adjustments will be necessary as 2000 landings data are finalized.

TABLE 4.—2001 BLACK SEA BASS QUARTERLY COASTWIDE COMMERCIAL QUOTAS AND QUARTERLY POSSESSION LIMITS

Quarter	Percent	Lb	Kg	Possession limits	
				Lb	Kg
1 (Jan-Mar)	38.64	1,168,760	530,141	9000	4,082
2 (Apr-Jun)	29.26	885,040	401,447	1500	680
3 (Jul-Sep)	12.33	372,951	169,168	1000	454
4 (Oct-Dec)	19.77	597,991	271,244	2000	907
Total	100.00	3,024,742	1,372,000

If a research quota set-aside of 2 percent were implemented for the 2001 fishery, the resulting commercial quota and recreational harvest limit would be 2,959,600 lb (1,342,452 kg) and 3,087,000 lb (1,400,239 kg), respectively.

Classification

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

The Council and NMFS prepared an IRFA that describes the economic impact this proposed rule, 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 at the beginning of this section of the preamble and in the SUMMARY section of the preamble. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. A copy of the complete IRFA can be obtained from the Northeast Regional Office of NMFS (see ADDRESSES) or via the Internet at <http://www.nero.nmfs.gov/ro/doc/nero.html>. A summary of the analysis follows.

NMFS prepared an Integrated Analysis of Alternatives for the EA/RIR/IRFA (NMFS' analysis) as a supplemental analysis to the IRFA to examine the overall economic impacts of the four options that are being considered for scup management, in

combination with the proposed measures for summer flounder and black sea bass. Specifically, NMFS' comprehensive analysis incorporated the effects of the proposed GRAs, the proposed scup quotas, the preferred scup trip limits, the preferred summer flounder and black sea bass quotas and trip limits, and any known 2000 overages that would impact 2001 quotas. NMFS' analysis was similar to that of the Council, but there are several substantive differences. First, the Council's analysis evaluated the recommended quota specifications and GRA impacts separately, using different data sets and different methods; NMFS analyzed the combined effects of the GRAs and the quota specifications for all three species. Second, the Council did not incorporate the economic effects of the trip limit changes for scup and black sea bass; NMFS did. Third, the Council's analysis did not reflect the fact that no non-exempt small-mesh species may be retained within the GRAs; NMFS' analysis does reflect this. Finally, the Council's analysis of the GRAs was based on combinations of dealer and sea sampling (observer) data, whereas NMFS used calendar year 1999 logbook and dealer data to analyze the economic impacts of the quota specifications, GRAs, and trip limit changes in a single model. NMFS believes that this approach incorporates

a more thorough assessment of the combined effects of the proposed management measures for 2001. The four scup management options were evaluated and compared against the 2000 measures, which was considered the status quo alternative.

The economic effects of the four scup options were analyzed using two different proration methods to provide a range of impacts. In the first method (quota baseline), 1999 fishing year data were prorated by the percent change in the proposed 2001 adjusted quotas and then compared to the adjusted 2000 quotas. This proration scheme reflects changes in fishing opportunity from one year to the next, without biasing the impacts due to a large overage that may have occurred in the baseline year. Nevertheless, a large overage in a given year does represent a potential loss of income to participating vessels in the subsequent year. Therefore, a second proration scheme was developed. Under the second method (landings baseline), the adjusted 2001 quota was compared to actual 2000 landings wherever available, and to 1999 landings otherwise. Using both proration schemes provides a range to estimate economic impacts for the status quo and all other alternatives considered. The alternatives and results of the analyses are summarized below.

The use of 2000 measures as status quo provides the baseline against which the proposed options are compared. The status quo was defined as being equivalent to a continuation of measures that were in effect for fishing year 2000 into 2001, except that the summer flounder TAL was adjusted to 17.91 million lb (8.12 million kg), which is the level necessary to meet the requirements of the Court Order. The GRAs analyzed as status quo are the GRAs recommended by the Council, except that Atlantic herring was the only exempted fishery. The fishing year 2000 trip limits for black sea bass and scup were assumed to be carried forward to 2001. Affected trips for the analysis of GRA impacts were those fishing trips that used less than 4.5-inch (11.43 cm) mesh during the proposed time and areas of the GRAs. Exempted trips were composed of trips in the area encompassed by the GRA that landed herring. Consistent with the exemption regulations that were implemented for fishing year 2000, landings of any non-exempt small-mesh species other than herring (Atlantic mackerel, *Loligo* squid, whiting, black sea bass) were deducted from total landings on exempted trips.

While the scup options have been described earlier in this preamble, the analyses made other assumptions as well. Based on 1999 logbook data, under Option I, aggregate scup landings would be expected to exceed 75 percent of the resulting Winter I scup quota, so a

10,000-lb (4,536-kg) trip limit was assumed to prevail for the entire Winter I period. For Options II, III, and IV, the lower overall 2001 TAL for scup means that 75 percent of the Winter I scup quota would likely be reached by the end of February, based on 1999 logbook data, so a 1,000-lb (454-kg) trip limit for scup was applied for March and April of the Winter I period under these three options.

NMFS' analysis found that the proposed management measures potentially impact a total of 1,158 vessels that participated in at least one of the summer flounder, scup and black sea bass fisheries, or had fished with mobile gear with less than 4.5-inch (11.43 cm) mesh inside at least one of the proposed GRAs.

Using the landings baseline proration method, Options I and III are expected to yield total gross revenues higher than would the status quo measures by approximately \$0.91 million and \$0.40 million, respectively, whereas Options II and IV yielded total gross revenues lower than the status quo by approximately \$0.16 million and \$0.13 million, respectively.

As part of the IRFA supplement, NMFS' analysis examined the four options relative to the status quo (2000 measures, as described earlier) to determine the percentage of the 1,158 potentially affected vessels that would experience a revenue loss of 5 percent or greater. A summary is provided here.

PERCENT OF VESSELS EXPERIENCING REVENUE LOSS > 5%

	Landings baseline	Quota baseline
Option I	2.1	3.4
Option II	3.2	4.6
Option III	2.8	4.1
Option IV	2.9	4.7

The Council's IRFA analysis examined the cumulative impacts of four alternative levels of commercial harvest limits (see Table 5). Alternative 1 analyzed the cumulative impacts of the harvest limits proposed by the Council and Board for summer flounder, scup, and black sea bass on vessels that are permitted to catch any of these three species. Alternative 2 analyzed the cumulative impacts if the harvest limits remained the same as 2000 (status quo). Alternative 3 analyzed the cumulative impacts of the least restrictive possible harvest levels—those that would result in the least reductions (or greatest increases) in landings (relative to 1999) for all species. Alternative 3 resulted in the highest possible landings for 2001, regardless of their probability of achieving the biological targets. Alternative 4 analyzed the cumulative impacts of the most restrictive possible harvest levels—those that would result in the greatest reductions in landings (relative to 1999) for all species.

TABLE 5.—COMPARISON OF THE ALTERNATIVES OF QUOTA COMBINATIONS REVIEWED

	Commercial quota	Quota specification as a proportion of the 2000 quotas	Percent change
Quota Alternative 1 (Council Alternative):			
FLK Preferred Alternative	10,747,535	0.967	-3.27
Scup Preferred Alternative	4,444,600	1.754	75.38
Black Sea Bass Preferred Alternative	3,024,742	1	0
Quota Alternative 2 (Status Quo):			
FLK Status Quo	11,111,298	1	0
Scup Status Quo	2,534,160	1	0
Black Sea Bass Status Quo	3,024,742	1	0
Quota Alternative 3 (Least Restrictive):			
FLK Non-Selected Alternative 3	12,276,662	1.105	10.49
Scup Non-Selected Alternative 3	5,138,800	2.028	102.78
Black Sea Bass Non-Selected Alternative 3	3,875,900	1.281	28.14
Quota Alternative 4 (Most Restrictive):			
FLK Non-Selected Alternative 4	9,940,643	0.895	-10.54
Scup Non-Selected Alternative 4	3,496,120	1.380	37.96
Black Sea Bass Non-Selected Alternative 4	1,999,200	0.661	-33.91

"FLK" is summer flounder

The categories of small entities likely to be affected by this action include commercial vessel owners holding an active Federal permit for summer flounder, scup, or black sea bass, as well as vessels that fish for any of these

species in state waters. The Council estimates that the proposed 2001 quotas could affect 1,969 vessels with a Federal summer flounder, scup, and/or black sea bass permit. Of these, 1,087 vessels are actively participating (i.e., landed

catch in 1999) in these fisheries. Note that this number is lower than the number estimated to be impacted in the NMFS analysis. This is because the NMFS analysis also includes vessels

that used fishing mesh less than 4.5 inches (11.43 cm) within the GRAs.

The Council's analysis of the harvest limits in Alternative 1 indicates that these harvest levels would result in greater than a 5-percent revenue loss to eight of the 1,087 commercial vessels expected to be impacted by this rule. Six of the vessels with projected revenue losses of 5 percent or greater landed black sea bass only, one vessel landed scup and black sea bass, and the other vessel landed black sea bass and summer flounder. Six vessels would experience no change in revenue. Five hundred and forty-four vessels would experience revenue losses of less than 5 percent, and 529 vessels would experience an increase in revenue under the Council's proposed harvest limits.

The analysis of Alternative 2 (status quo) indicated that these harvest limits would result in a revenue loss of 5 percent or greater to 15 of the 1,087 commercial vessels expected to be impacted by this rule. Six of the vessels with projected revenue losses of 5 percent or greater landed black sea bass only, five vessels landed scup and black sea bass, one vessel landed black sea bass and summer flounder, two vessels landed summer flounder scup and black sea bass, and one vessel landed scup only. No change in revenue would be experienced under the Alternative 2 by 6 vessels, while 95 vessels would have revenue losses less than 5 percent. 971 vessels would experience an increase in revenue.

The analysis of the least restrictive harvest limits (Alternative 3) indicated that none of the 1,087 vessels expected to be impacted by this rule would experience revenue losses of 5 percent or greater. All but one of the vessels would experience an increase in revenue. The vessel projected to experience a revenue loss of less than 5 percent possessed a summer flounder permit.

The analysis of the most restrictive harvest limits (Alternative 4) indicated that revenue reductions of 5 percent or more would be experienced by 214 out of the 1,087 commercial vessels expected to be impacted by this rule. Eighty-six of the vessels with projected revenue losses of 5 percent or greater landed black sea bass only; 39 vessels landed summer flounder, scup and black sea bass; 38 vessels landed black sea bass and summer flounder; 25 vessels landed summer flounder only; 22 vessels landed scup and black sea bass; and 4 vessels landed summer flounder and scup. Six hundred and eighty-nine vessels would have a revenue loss less than 5 percent, and

184 vessels would experience an increase in revenue.

The Council also prepared an analysis of the alternative recreational harvest limits. For the summer flounder recreational fishery, the preferred harvest limit of 7.165 million lb (3.25 million kg) in 2001 (Alternative 1) is only slightly less than the harvest limit for 1997, 1998, 1999, and 2000, and about 1.201 million lb (0.54 million kg) below the recreational landings for 1999. Alternative 2's recreational harvest limit of 7.41 million lb (3.36 million kg) in 2001 would be the same harvest level that was implemented each year beginning in 1997. However, it could result in a decrease in recreational landings of about 1 million lb (0.45 million kg) from estimated recreational landings for 1999. Alternative 4's recreational harvest limit of 6.63 million lb (3.0 million kg) in 2001 would be 0.78 million lb (0.35 million kg) below the recreational harvest limit for 2000 and 0.96 million lb (0.44 million kg) below the 1999 recreational landings. If Alternative 1, 2, or 4 were chosen, it is likely that more restrictive management measures would be required to prevent anglers from exceeding the recreational harvest limit in 2001. The effect of greater restrictions is unknown at this time. More limiting regulations could affect demand for party/charter boat trips. However, party/charter activity in the 1990s has remained relatively stable, so the effects may be minimal. Alternative 3 would allocate 8.184 million lb (3.71 million kg) to the summer flounder recreational fishery and would increase short-term economic benefits due to increased landings.

For the scup recreational fishery, Alternative 1's recreational harvest limit of 1.77 million lb (0.80 million kg) is nearly identical to 1999 landings and, therefore, should have minimal impacts. Alternative 2's limit of 1.238 million lb (0.56 million kg) could result in a decrease in recreational landings of about 0.65 million lb (0.29 million kg) from estimated recreational landings for 1999. Alternative 4's recreational harvest limit of 1.504 million lb (0.68 million kg) could be a 20-percent decrease from the 1999 recreational landings, but 0.3 million lb (0.14 million kg) more than the recreational harvest limit implemented for 2000. With Alternative 2 or 4, it is likely that more restrictive management measures would be required to prevent anglers from exceeding the recreational harvest limit in 2001. The effect of greater restrictions on party/charter boats is unknown at this time. Alternative 3 would increase the recreational harvest

limit by 4 percent compared to 1999 recreational landings, or to 1.967 million lb (0.89 million kg), and therefore is not expected to result in negative economic impacts.

For the black sea bass recreational fishery, harvest limits under Alternative 1 and 2 (3.14 million lb (1.42 million kg)) are about 85 percent above the 1999 recreational landings. As such they are not expected to result in negative economic impacts on the recreational fishery. Under Alternative 3 and 4 recreational landings would be increased by more than 2 million lb (0.90 million kg) and 0.38 million lb (0.17 million kg), respectively, over the 1999 landings estimate; therefore these alternatives are not expected to cause negative economic impacts.

The Council analysis used 1998 Vessel Trip Report (VTR) data to estimate that a maximum of 172 vessels would be affected by the GRAs. The Council's analysis identified affected vessels as those that fished with trawl gear with codend mesh less than 4.5 inches (11.4 cm) in the largest of the GRAs evaluated in the 2000 specifications. These GRAs incorporated full statistical areas, while the GRAs that were implemented and that are analyzed here are smaller. Therefore, the Council concluded that 172 vessels would represent the maximum number of affected entities; the actual number would likely be smaller but could not be quantified.

The Council noted that the economic impacts of the GRA alternatives may be overestimated because the GRAs do not prohibit all trawling activity, but may rather redirect it to other open areas. The amount of redirection could not be quantified. The economic impacts of a reduction in landings from inside the GRAs are likely to be mitigated by an increase in landings from outside the GRAs, though vessel costs could increase if being displaced from the GRAs increases trip length or decreases catch per unit effort.

The Council analysis concludes that the proposed mesh threshold increase from 200 lb to 500 lb (91 kg to 227 kg) for the November–April period is expected to have a positive impact on harvesters using small mesh, since more scup will be able to be retained in the small mesh fishery than under the status quo.

The 75-percent landing trigger proposed for the scup Winter I period would decrease the landing limit from 10,000 lb (4,536 kg) to 1,000 lb (453 kg) per trip. An 85-percent trigger was used in 2000. The 75-percent trigger is expected to decrease landings early enough in the period so that the quota

will be distributed over more of the Winter I period. This measure is not expected to have a major negative effect on landings during the period, because it is not a major change from the 2000 measure.

The major impact associated with the proposed change in the scup possession limit in Winter II from 4,000 lb (1,814 kg) to 2,000 lb (907 kg) is a potential increase in the number of trips made by vessels during that period. The Council estimated that the proposed change in the possession limit for Winter II would increase the numbers of trips from 142 to 232. If harvesters are unable to make additional trips to compensate for the reduction in landings associated with the possession limit (142 trips was a limiting factor), then each of the estimated 49 vessels landing scup in this period would lose an estimated \$3,692. This loss in revenue is likely to be overestimated, since vessels could make additional trips or fish longer on the same trips for other species to compensate for landings reductions associated with the proposed scup possession limit. This would have an unknown impact on scup mortality.

The major impact associated with the proposed black sea bass possession limit changes in Quarter 2, from 3,000 lb (1,361 kg) to 1,500 lb (680 kg) and Quarter 3, from 2,000 lb (907 kg) to 1,000 lb (454 kg) is a potential increase in the number of trips made by vessels during those periods. Based on 1999 dealer reports, the Council estimated that the proposed possession limits for Quarters 2 and 3 would increase the numbers of trips needed to land the same amount of black sea bass landed during those quarters in 1999 from 144 to 256, and from 102 to 177, respectively. If harvesters are unable to make additional trips to compensate for the reduction in landings associated with the possession limits (144 and 102 trips were limiting factors), each vessel would lose an estimated \$7,802 and \$7,065 during Quarters 2 and 3, respectively. These revenue losses are likely to be overestimated, since vessels could make additional trips or fish longer on the same trips for other species to compensate for landings reductions associated with the proposed landing limit. This would have an unknown impact on black sea bass mortality.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule. Such

comments should be sent to the Northeast Regional Administrator (see ADDRESSES).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 22, 2000.

William T. Hogarth,

Deputy 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 § 648.14, paragraph (a)(123) is removed; and paragraphs (a)(84), (a)(92), (a)(122) and (u)(9) are revised to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(84) Fish for, catch, possess, or retain scup in or from the EEZ north of 35°15.3' N. lat. in excess of the amount specified in § 648.123 (500 lb (226.8 kg) or more from November 1–April 30, or 100 lb (45.4 kg) or more from May 1–October 31), unless the vessel meets the gear restrictions in § 648.123.

* * * * *

(92) Fish for, catch, possess, or retain 1,000 lb (453.4 kg) or more of black sea bass in or from the EEZ north of 35°15.3' N. lat., the latitude of Cape Hatteras Light, NC, to the U.S.—Canadian border, unless the vessel meets the gear restrictions of § 648.144.

* * * * *

(122) Fish for, catch, possess, retain or land silver hake or black sea bass in or from the areas, and during the time periods, described in § 648.122(a), (b), or (c) while in possession of any trawl nets or netting that do not meet the minimum mesh restrictions, or that are modified, obstructed or constricted, as specified in § 648.122 and § 648.123(a), unless the nets or netting are stowed in accordance with § 648.23(b).

* * * * *

(u) * * *

(9) Possess, retain, or land black sea bass harvested in or from the EEZ in excess of the commercial possession limit established at § 648.140.

* * * * *

3. In § 648.120, paragraph (b)(2) is revised to read as follows:

§ 648.120 Catch quotas and other restrictions.

* * * * *

(b) * * *

(2) Possession limits for the Winter I and Winter II periods. The possession limit is the maximum quantity of scup that is allowed to be landed within a 24 hour period (calendar day).

* * * * *

4. In § 648.122, paragraphs (d) and (e) are redesignated as (e) and (f); paragraphs (a), (b), and (c) are revised, and a new paragraph (d) is added as follows:

§ 648.122 Season and area restrictions.

(a) Southern Gear Restricted Area. (1) From January 1 through April 30, all trawl vessels in the Southern Gear Restricted Area that fish for or possess non-exempt species as specified in paragraph (a)(2) of this section, must fish with nets that have a minimum mesh size of 4.5 inches (11.43 cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net. For codends with fewer than 75 meshes, the minimum-mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the head rope, excluding any turtle excluder device extension, unless otherwise specified in this section. The Southern Gear Restricted Area is an area bounded by straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the Regional Administrator upon request):

SOUTHERN GEAR RESTRICTED AREA

Table with 3 columns: Point, N. Lat., W. Long. Rows include SGA1 through SGA5 with coordinates.

(2) Non-exempt species. Unless otherwise specified in paragraph (d) of this section, the restrictions specified in paragraph (a)(1) of this section apply only to vessels in the Southern Gear Restricted Area that are fishing for or in possession of the following non-exempt species: Black sea bass and silver hake (whiting).

(b) Northern Gear Restricted Area I. (1) From November 1 through December 31, all trawl vessels in the Northern Gear Restricted Area I that fish for or possess non-exempt species as specified in paragraph (b)(2) of this section must fish with nets that have a minimum

mesh size of 4.5 inches (11.43 cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net. For codends with fewer than 75 meshes, the minimum-mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the head rope, excluding any turtle excluder device extension, unless otherwise specified in this section. The Northern Gear Restricted Area I is an area bounded by straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the Regional Administrator upon request):

NORTHERN GEAR RESTRICTED AREA I

Table with 3 columns: Point, N. Lat., W. Long. Rows include NGA1 through NGA4 and NGA1.

(2) Non-exempt species. Unless otherwise specified in paragraph (d) of this section, the restrictions specified in paragraph (b)(1) of this section apply only to vessels in the Northern Gear Restricted Area I that are fishing for, or in possession of, the following non-exempt species: Black sea bass and silver hake (whiting).

(c) Northern Gear Restricted Area II. (1) From December 1 through January 31, all trawl vessels in the Northern Gear Restricted Area II that fish for or possess non-exempt species as specified in paragraph (c)(2) of this section must fish with nets that have a minimum mesh size of 4.5 inches (11.43 cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net. For codends with fewer than 75 meshes, the minimum-mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the head rope, excluding any turtle excluder device extension, unless otherwise specified in this section. The Northern Gear

Restricted Area II is an area bounded by straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the Regional Administrator upon request):

NORTHERN GEAR RESTRICTED AREA II

Table with 3 columns: Point, N. Lat., W. Long. Rows include NGA6 through NGA9 and NGA6.

(2) Non-exempt species. Unless otherwise specified in paragraph (d) of this section, the restrictions specified in paragraph (c)(1) of this section apply only to vessels in the Northern Gear Restricted Area II that are fishing for, or in possession of, the following non-exempt species: Black sea bass, Loligo squid, and silver hake (whiting).

(d) Transiting. Vessels that are subject to the provisions of the Southern and Northern GRAs, as specified in paragraphs (a), (b), and (c) of this section, respectively, may transit these areas provided that trawl net codends on board of mesh size less than that specified in paragraphs (a), (b), and (c) of this section are not available for immediate use and are stowed in accordance with the provisions of § 648.23(b).

5. In § 648.123, paragraphs (a)(1) and (a)(5) are revised to read as follows:

§ 648.123 Gear restrictions.

(a) * * * (1) Minimum mesh size. The owners or operators of otter trawlers who are issued a scup moratorium permit and who possess 500 lb (226.8 kg) or more of scup from November 1 through April 30, or 100 lb (45.4 kg) or more of scup from May 1 through October 31, must fish with nets that have a minimum mesh size of 4.5 inches (11.43 cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net. For codends with fewer than 75

meshes, the minimum-mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the head rope, excluding any turtle excluder device extension. Scup on board these vessels shall be stored separately and kept readily available for inspection.

* * * * *

(5) Stowage of nets. The owner or operator of an otter trawl vessel retaining 500 lb (226.8 kg) or more of scup from November 1 through April 30, or 100 lb (45.4 kg) or more of scup from May 1 through October 31, and subject to the minimum mesh requirements in paragraph (a)(1) of this section, and the owner or operator of a midwater trawl or other trawl vessel subject to the minimum mesh size requirement in § 648.122, may not have available for immediate use any net, or any piece of net, not meeting the minimum mesh size requirement, or mesh that is rigged in a manner that is inconsistent with the minimum mesh size. A net that conforms to one of the methods specified in § 648.23(b), and that can be shown not to have been in recent use is considered to be not available for immediate use.

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6. In § 648.140, paragraph (b)(2) is revised to read as follows:

§ 648.140 Catch quotas and other restrictions.

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(b) * * *

(2) A commercial possession limit for all moratorium vessels may be set from a range of zero to the maximum allowed to assure that the quarterly quota is not exceeded, with the provision that these quantities be the maximum allowed to be landed within a 24-hour period (calendar day).

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[FR Doc. 00-30336 Filed 11-22-00; 4:41 pm]

BILLING CODE 3510-22-P