Atlantic States Marine Fisheries Commission

Summer Flounder, Scup, and Black Sea Bass Management Board and Mid-Atlantic Fishery Management Council

May 10, 2017
1:00 – 5:45 p.m.
Alexandria, Virginia

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

1. Welcome/Call to Order *(M. Luisi)* 1:00 p.m.

2. Board Consent 1:00 p.m.

   - Approval of Agenda
   - Approval of Proceedings from February 2017

3. Public Comment 1:05 p.m.

4. Scup Addendum XXIX for Final Approval **Final Action*** (*K. Rootes-Murdy*) 1:15 p.m.
   - Review Management Alternatives
   - Public Comment Summary
   - Technical Committee Report
   - Advisory Panel Report
   - Consider Final Approval of Addendum XXIX

   **Council will also take action on Scup Framework 10*

5. Review Summer Flounder Draft Comprehensive Amendment Range of Alternatives for Commercial Issues (*K. Rootes-Murdy & K. Dancy*) 2:00 p.m.

6. Consider 2017 Black Sea Bass Recreational Measures **Final Action** (*K. Rootes-Murdy*) 3:30 p.m.
   - Review Final 2016 Recreational Black Sea Bass Harvest Estimate
   - Consider Management Response to the Final Harvest Estimate

7. Review White Paper on Potential Experimental Recreational Wave 1 Black Sea Bass Fishery **Possible Final Action*** (*B. Muffley*) **Joint Board and Council Action* 4:30 p.m.
   - Consider Postponed Motion to Allow Experimental Wave 1 For-hire Fishery

     Motion to allow an experimental 2018 January/February (wave one), recreational, federally permitted for-hire fishery for black sea bass with a 15 fish per person possession limit, a suspended minimum size limit, and a zero discard policy to allow for barotrauma, and a mandatory trip reporting requirement.

8. Review White Paper on Summer Flounder Recreational Specifications *(B. Ballou)* 5:00 p.m.

9. Other Business/Adjourn 5:30/5:45 p.m.

The meeting will be held at the Westin Alexandria, 400 Courthouse Square, Alexandria, Virginia; 703.253.8600

MEETING OVERVIEW

Summer Flounder, Scup, and Black Sea Bass Management Board and Mid-Atlantic Fishery Management Council Joint Meeting
May 10, 2017
1:00-5:45 p.m.
Alexandria, Virginia

Chair: Mike Luisi (MD) Assumed Chairmanship: 10/15	Technical Committee Chair: Greg Wojcik (CT)	Law Enforcement Committee Representative: Snellbaker (NJ)
Vice Chair: Bob Ballou	Advisory Panel Chair: Vacant	Previous Board Meeting: February 2, 2017
Voting Members: ME, NH, MA, RI, CT, NY, NJ, DE, MD, PRFC, VA, NC, NMFS, USFWS (14 votes for Black Sea Bass; 12 votes for Summer Flounder and Scup)		

2. Board Consent

- Approval of Agenda
- Approval of Proceedings from February 2, 2017

3. Public Comment – At the beginning of the meeting public comment will be taken on items not on the agenda. Individuals that wish to speak at this time must sign-in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

4. Scup Addendum XXIX for Final Approval (1:15-2:00 p.m.) Final Action*

Background

- The Board initiated Draft Addendum XXIX at the December 2016 joint ASMFC/MAFMC Meeting. At the 2017 ASMFC Winter meeting the Draft Addendum was approved by the Board for public comment. (**Briefing Materials**)
- The draft addendum proposes management alternatives for the start and end dates of the scup commercial quota periods.

Presentations

- Overview of the Draft Addendum and public comment summary by K. Rootes-Murdy (**Briefing Materials**)
- Technical Committee Report by G. Wojcik

Board Actions for Consideration

- Select management alternative
- Approve final document

**Council will also take action on Scup Framework 10*

5. Review Summer Flounder Draft Comprehensive Amendment Range of Alternatives for Commercial Issues (2:00-3:30 p.m.)

Background

- The Board and Council initiated a comprehensive amendment on summer flounder management in 2014. The amendment was initially intended to reconsider many aspects of the FMP, including goals and objectives, commercial and recreational management strategies, and allocation.
- In February, the Board and Council review recreational components of the FMP to determine which items could be dealt with faster through a framework process. The Board and Council agreed to move forward with the amendment focusing on goals and objectives and commercial management strategies in 2017.
- The Fishery Management Action Team (FMAT) held commercial working group calls in April 2017 to consider data needs to develop draft management alternatives. (**Supplemental Materials**)

Presentations

- Overview of draft range of alternatives for commercial issues by K. Rootes-Murdy & K. Dancy

Board Actions for Consideration

- Provide guidance on the development of management alternatives for commercial issues.

6. Consider 2017 Black Sea Bass Recreational Measures (3:30-4:30 p.m.) Final Action

Background

- In February, the Board and Council updated the commercial and recreational specifications for black sea bass after considering the results of the Black Sea Bass Benchmark Stock Assessment. The Board and Council approved increases to both the commercial quota and recreational harvest limit for 2017.
- The Board and Council maintained status quo recreational management measures for federal waters from 2016 and approved continuing ad-hoc regional management for 2017 with the specification that recreational harvest from Northern Region states (Massachusetts-New Jersey) not increase from 2016 levels.
- 2016 Preliminary harvest data through wave 6 (November/December) was released in late February and indicated higher harvest than previous projected. (**Supplemental materials**)

Presentations

- TC Review of 2016 black sea bass harvest estimates by G. Wojcik

Board Actions for Consideration

- Specification of final 2017 black sea bass recreational management measures for Northern Region states

7. Review White Paper on Potential Experimental Recreational Wave 1 Black Sea Bass Fishery (4:30- 5:00 p.m.) Possible Final Action*

Background

- In February, the Board and Council tabled a motion to allow an experimental recreational black sea bass fishery in wave 1 (January/February) in 2018:

  Motion to allow an experimental 2018 January/February (wave one), recreational, federally permitted for-hire fishery for black sea bass with a 15 fish per person possession limit, a suspended minimum size limit, and a zero discard policy to allow for barotrauma, and a mandatory trip reporting requirement.

  Motion by: (Council) Mr. DiLernia, seconded by Mr. King; (Board) Mr. Heins, seconded by Mr. Reid.
- Analysis on the tabled motion was completed by Council staff to evaluate the fishery and its potential impacts and provide considerations on the potential management action. (**Supplemental Materials**).

Presentations

- Experimental Recreational Wave 1 Black Sea Bass Fishery by B. Muffley

Board Actions for Consideration

- Approve an experimental recreational wave 1 black sea bass fishery in 2018*

**Joint Board and Council Action*

8. Review White Paper on Summer Flounder Recreational Specifications (5:00-5:30 p.m.)

Background

- In February, the Board approved Addendum XXVIII for summer flounder recreational management in 2017. Since 2014, 4 addenda (including Addendum XXVIII) have been approved annually to continue regional management under conservation equivalency.
- A white paper outlining current recreational management specifications, annual process, and challenges was developed to identify how summer flounder recreational management can be improved. (**Supplemental Materials**).

Presentations

- Review White Paper on Summer Flounder Recreational Specifications by B. Ballou

Board Actions for Consideration

- Provide guidance on addressing summer flounder recreational management issues associated with regional management and/or conservation equivalency

9. Other Business/Adjourn

DRAFT PROCEEDINGS OF THE

ATLANTIC STATES MARINE FISHERIES COMMISSION

SUMMER FLOUNDER, SCUP AND BLACK SEA BASS MANAGEMENT BOARD

The Westin Alexandria
Alexandria, Virginia
February 2, 2017

These minutes are draft and subject to approval by the Summer Flounder, Scup and Black Sea Bass Management Board.
The Board will review the minutes during its next meeting.

Table of Contents

INDEX OF MOTIONS

INDEX OF MOTIONS (continued)

ATTENDANCE

Board Members

Steve Train, ME (GA)
Doug Grout, NH (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)
Ritchie White, NJ (GA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)
Raymond Kane, MA (GA)
Nichola Meserve, MA, proxy for D. Pierce (AA)
David Borden, RI (GA)
Bob Ballou, RI, proxy for J. Coit (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)
Mark Alexander, CT (AA)
Lance Stewart, CT (GA)
Jim Gilmore, NY (AA)
Emerson Hasbrouck, NY (GA)
John McMurray, NY, proxy for Sen. Boyle (LA)
Tom Baum, NJ, proxy for D. Chanda (AA)
Chris Zeman, NJ, proxy for T. Fote (GA)
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)
Roy Miller, DE (GA)
John Clark, DE, proxy for D. Saveikis (AA)
Craig Pugh, DE, proxy for Rep. Carson (LA)
David Blazer, MD (AA)
Mike Luisi, MD (Chair)
Rachel Dean, MD (GA)
Rachel Dean, MD (GA)
Rob O'Reilly, VA, proxy for J. Bull (AA)
Kyle Schick, VA, proxy for Sen. Stuart (LA)
Michelle Duvall, NC, proxy for B. Davis (AA)
Doug Brady, NC (GA)
David Bush, NC, proxy for Rep. Steinburg (LA)
Martin Gary, PRFC
Sherry White, USFWS
Peter Burns, NMFS

(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)

Ex-Officio Members

Greg Wojcik, Technical Committee Chair

Staff

Robert Beal
Toni Kerns
Kirby Rootes-Murdy

Guests

Jack McGovern, NOAA
Derek Orner, NOAA
Emily Gilbert, NOAA
Mike Ruccio, NOAA
Brandon Muffley, MAFMC
Anthony DiLernia, MAFMC
Kiley Dancy, MAFMC
Phil Langley, PRFC
Matt Gates, CT DEEP
Jason McNamee, RI DEM
Nicole Lengyel, RI DEM
Chris Batsavage, NC DNR
Dan McKiernan, MA DMF
Katherine Hofmann, MD DNR
Mark Belton, MD DNR
Russ Allen, NJ DFW
Larry Herrighty, NJ DFW
Andy Shiels, PA Fish & Boat
Arnold Leo, E. Hampton, NY
Kevin Slattery, Onset, MA
Aaron Kornbluth, PEW
Purcie Bennett-Nickerson, PEW
Zach Greenberg, PEW
Joseph Gordon, PEW
Mike Toole, MD CBA
Joseph Sadler, MD CBA
Mike Sadler, MD CBA
Steven Forsberg, Montauk, NY
Steve Forsberg, Jr. Montauk, NY
Robin Scott, Margate, NJ
Mike Shepherd, Linwood, NJ
Mike Rogers, Ofc. Rep Pallone, NJ
Jonathan Atwood, Ofc of Asm Andrzejczak, NJ
Bob Martin, NJ DEP

The Summer Flounder, Scup and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of the Westin Hotel, Alexandria, Virginia, February 2, 2017, and was called to order at 8:00 o'clock a.m. by Chairman Michael Luisi.

CALL TO ORDER

CHAIRMAN MICHAEL LUISI: Good morning everyone. I would like to call the meeting to order; a meeting of the Summer Flounder, Scup and Black Sea Bass Management Board. My name is Mike Luisi; and I am a Representative from the state of Maryland.

APPROVAL OF AGENDA

CHAIRMAN LUISI: We've got a lot on the agenda here today, but to start I would like to suggest a modification to the agenda.

Staff approached me and asked if we can rearrange some of the items on the agenda, to be sure that we make sure we cover and are able to spend the amount of time that is needed on the action items of the agenda. There are two suggestions, the first is to just rearrange under Item 4, the Technical Committee Report and the Advisory Panel Report.

Staff indicated that it would be just a better flow into the discussion when we're considering Addendum XXVIII for final approval later. The second modification is to move Item 5, the Update on the 2015 Black Sea Bass Commercial Landings and 2017 Harvest Specifications to the end of the meeting, to follow; Setting the 2017 Scup Recreational Fisheries Specifications.

Is there any opposition to those modifications to the agenda today? Seeing none; we'll consider the agenda approved as modified.

APPROVAL OF PROCEEDINGS

CHAIRMAN LUISI: Now moving on to the approval of the proceedings from the October, 2016, is there any objection to the approval of the proceedings from 2016? Okay seeing none; the proceedings are approved.

PUBLIC COMMENT

CHAIRMAN LUISI: Okay down to Number 3 for Public Comment. It is during this time in our meetings where we reserve some time for the audience to discuss issues that are not on the agenda. However, it has been asked of me as Chair of this Board to consider allowing some flexibility under our normal operating procedures for public comment.

Therefore we have a list of a few individuals who would like to offer their thoughts; whether it is on items to be discussed later or not. Therefore, I'm going to turn to our first speaker. We have Commissioner Bob Martin, from the New Jersey Department of Environmental Protection. Bob is at the microphone, and Mr. Commissioner the microphone is yours.

COMMISSIONER BOB MARTIN: Thank you, Mr. Chairman, and thank you for allowing me to speak this morning about a matter of great importance to the state of New Jersey. I'm here representing the state of New Jersey and the Governor of New Jersey. I am now in my eighth year of Commissioner of DEP; and during my tenure in New Jersey, have always worked cooperatively with the Commission, the other states of the compact, the National Marine Fisheries Service, and we've always played by the rules and wanted to work cooperatively with everyone. We understand and strongly support the need to sustainably manage the Atlantic coast fisheries, and we always have. In 2013, the regionalization of Connecticut, New York, and New Jersey was adopted; even though we did not support it.

We tried and it has not worked. Now I am here today, because of the options being presented for summer flounder quotas for New Jersey for 2017; which would put it bluntly, destroy recreational summer flounder fishing in my state. Only about 15 percent of the fluke in New Jersey waters are at or above the 19 inches in length that is being proposed.

This would make it extremely unlikely that most of the recreational anglers would be able to find a fish they could keep. As a result of any of these options, New Jersey would be hit disproportionately hard, and essentially would kill 20,000 jobs and gut a 1.2 billion dollar industry.

This is completely unacceptable to the state of New Jersey; so I come to you with two important requests, to support adding a sixth option to Addendum XXVIII to maintain the status quo for recreational summer flounder fishing, and to vote to approve that sixth option. I make this request for four simple reasons.

One, the data at which any of these changes of status quo would be based on is terribly flawed. The benchmark stock assessment is old. The model used for evaluating the health of the fishery is unreliable and out-of-date, and New Jersey's own data shows that the summer flounder stock is healthy.

I strongly urge you not to move forward with changes to the size limit, bag limit, and length of season based on questionable data and an outdated model. We share; we all share in this room the difficult task of managing the fisheries based on sound science. In this case the science is clearly not where we want it to be.

Let me first address the data collection through the MRIP program. As you know the National Academies of Sciences Engineering and Medicine recently released a report evaluating MRIP. The report suggests 38 changes to that program. Many of these suggest changes to focus on data collection. They emphasize the urgent need to improve the way the data is collected.

For example, the intercept method of data collection is inadequate, because the sample sizes are way too small. Incredibly small sample sizes do not represent the whole population. Here is an example of one of those flaws. Several years ago MRIP personnel collecting data on black sea bass intercepted a boat in New Jersey with two anglers onboard.

One had caught 7 fish the other had caught 14 from a possible bag limit of 15. From a single intercept, MRIP expanded the catch to 150,000 fish. That single intercept represented 50 percent of New Jersey's total black sea bass harvest in 2015. They drew that conclusion based on two fishermen who had a very good day.

That is not only unscientific, it defies common sense. There are numerous other examples from New Jersey charterboat captains, which I've talked to over the last several weeks; in fact over the last several years, and many of these talk about other issues about the certain intercepts that have come to them only because they continue to catch fish, and not go after and talk to the boats that don't catch any fish. To compound the problem, MRIP is designed to show broad performance trends in the recreational fishing industry. It is not designed to be compared annually as currently being done.

Misapplying long-term data collection system by using it for short-term analysis makes no sense whatsoever. The whipsaw of annually going through quotas is unsettling and disruptive to the industry, and completely unnecessary. Although the National Academies report concluded that some progress had been made; it also concluded that MRIP still had some serious problems.

These challenges are serious, and get to the heart of the matter. We cannot make solid, scientific-based decisions based on data collection program that after ten years still has, according to National Academy of Sciences, statistical challenges. In addition to question of how data is collected, let's not forget the most recent benchmark stock assessment dates back to 2013.

The only way to correct this problem is to undertake a benchmark stock assessment now. New Jersey deems it important to undertake that assessment as soon as possible, and we are willing to provide a cost share from the state of New Jersey to get that started immediately; and I wish that all the other states, and request that all the other states join in as well, not just in doing that but it is also to contribute to that.

Let me now turn to the methodology being used for decisions for annual quotas. The current methodology is inadequate. It relies only on the age of the fish and ignores such important aspects as size, and sex. As a result this methodology has unintended consequences of encouraging the removal of females from the stock, because females tend to mature faster and grow larger than the males.

Increasing the minimum size requirement actually encourages the taking of females. No one has to be a biologist to know that reducing the population of females from the waters will lower recruitment rates and reduce the availability of the population to increase. As you all know, a new more accurate, more sustainable sex, age, length methodology is being developed by a team led by Dr. Patrick Sullivan of Cornell.

Again that initiative will correct the flaws that we've identified. As we've seen here from Dr. Sullivan's modeling, we know that this model would significantly improve our knowledge of the size and composition of a summer flounder fishery. That would increase the ability to achieve the goal we all share, ensuring the summer stock continues to thrive.

The consequence of those shortcomings of the current modeling, Mr. Chairman, will be profound; both on a fish stock and on the recreational fishing industry. These shortcomings alone argue strongly for maintaining the status quo, until data collection is improved and new modeling by Dr. Sullivan and his team are used.

I also want to underscore that New Jersey's summer stock flounder stock is healthy. We have decades of data to prove that. We've been carrying out New Jersey ocean trawl surveys for nearly 30 years. This includes population trends for summer flounder. Our survey consists of five cruises a year through 35 randomly selected stations during each cruise; covering depths of 90 feet. In total that's 175 pulls per year. Our data has consistently shown that our fluke population has remained stable since 1992, and that in fact shows a slight but measurable improvement. That is what I mean by reliable, scientifically sound data. Apart from the unreliable data and the old methodology, there is yet another complication.

The recent directive from the white house that no new federal regulations are to be issued until the new president's appointees are in place and O and B has reviewed those rules. This ties NOAAs hands and NOAA Fisheries hands until new leadership is in place at Department of Commerce and at NOAA.

The new administration has the right to set NOAAs policies. This creates a high level of uncertainty about the policies of the new administration and how things are going to be pursued going forward. It could be months before those positions are filled, and it could render a decision on status quo and other issues going forward.

That is why I'm recommending that we stay with status quo at this point in time, at least until new decision makers are in place and a new benchmark stock is assessed; that is the best way to approach what we're going forward with. If the Commissioners in this room cannot accept status quo, then I strongly ask that you support postponing any actions until NMFS has clear authority to move forward and publish regulations in the Federal Register.

Mr. Chairman and members of the Management Board, I want to leave you with one final thought. If the Commission does not vote to approve proposed new option that I've requested of status quo, or to postpone it, the state of New Jersey will use every legal, administrative and political tool available to us to protect New Jersey's recreational summer flounder industry from the decision that we believe will destroy our industry.

We'll do everything to prevent the destruction of 1.2 million dollar industry that directly employs 20,000 people in our state and attracts tens of thousands more people to our coastal communities every year. There is nothing in Magnuson-Stevens that prohibits you from supporting status quo. I strongly urge you today to maintain the status quo for '17; or at the very least postpone any action. I thank you for your cooperation. I thank you for the time this morning, and I appreciate working with you. Thank you very much on the behalf of New Jersey.

CHAIRMAN LUISI: Thank you, Mr. Commissioner. I appreciate your time today and your thoughts. Next I have Mike Rogers with Congressman Pallone's office. Mike, do you want to step to the microphone?

MR. MICHAEL L. ROGERS: Thank you again for the opportunity to speak, and again I'm here representing my boss; Congressman Pallone from the Sixth District of New Jersey. I want to thank Chairman Grout, Vice-Chairman Gilmore, and all members and staff of the Atlantic States Marine Fisheries Commission; for allowing me to make a statement about the summer flounder quotas for 2017 and 2018, and for the work you do to serve fishermen in coastal communities.

While I am unable to make this statement in person, please be assured that this issue is a priority for me. I also want to thank the New Jersey members of the Commission and especially want to thank New Jersey DEP Commissioner Martin for his efforts to protect New Jersey fishermen from these onerous cuts. On December 21st, NOAA announced finalized regulations to reduce the acceptable biological catch, recreational and commercial quotas for summer flounder in 2017 and 2018. These reductions are severe. The summer flounder ABC will be reduced 29 percent in 2017, and 16 percent in 2018. The recreational and commercial limits would both be reduced by approximately 30 percent in 2017 and 16 percent in 2018.

There is no doubt that these reductions will have a significant negative impact on the state of New Jersey, where the recreational and commercial fishing industries generate about 2.5 billion dollars annually; and represent tens of thousands of jobs. Fishermen and their families will not be the only ones who suffer if these dramatic cuts are implemented. The tourism and boating industries along the shore will lose business as well.

I represent the New Jersey Sixth Congressional District, and there are many coastal communities in my district, which will be harmed if these regulations go into effect. That is why I have opposed these cuts ever since NOAA proposed them last year; working with my New Jersey Congressional colleagues.

By reaching out to NOAA, testifying before the Mid-Atlantic Fishery Management Council, and offering a statement to a public hearing

conducted by this body, all to prevent these cuts from going into effect before we know whether they are actually necessary at all. All of us want a healthy fluke population. Having a sustainable population benefits both our economy and our environment.

However, members of the fishing industry have real concerns about the science and methodologies used to justify these draconian cuts. Last month I led a number of my congressional colleagues in sending a letter to former Commerce Secretary, Penny Pritzker, calling on her to use her emergency powers to prevent these damaging regulations from going into effect, and direct NOAA to reexamine its methodologies and conduct a new benchmark, summer flounder assessment before making a decision to reduce summer flounder quotas.

There are many compelling reasons to question the decision to cut summer flounder quotas, but the underlying issue is that we need to comprehensively change both how and how often we conduct stock assessments. In the letter we pointed out just one example of the questionable methods used to justify these cuts.

The Marine Recreational Information Program, MRIP, estimated that Connecticut and New York recreational fishermen greatly exceeded limits on summer flounder in 2016. A major reason for this supposed overfishing was an estimated increase in fishing trips in July and August, 2016. However, in order for MRIPs numbers to add up, there would have needed to be a 68 percent increase in fishing trips for Connecticut in those months, and a 35 percent increase for New York in those same months.

These supposed increases are dubious. According to the Jersey Coast Anglers Association, from 2007 to 2014, there was a drop of eight million fishing trips from New York to North Carolina. Another flaw is NOAAs reliance on annually estimating the number of flounder out in the sea, as opposed to relying on regularly updated scientific statistics and surveys.

Commissioner Martin put it well at an event last week and today, when he described the inherent weakness of relying on this method, which is essentially a guess about stock population. NOAA should instead use models that cover multiple years, which will bring certainty to the industry and better allow us to measure which conservations work and which do not. Another issue I've heard from my constituents is the size limit of 19 inches for summer flounder. Most summer flounder larger than 18 inches in length are female.

If we're serious about growing the summer flounder stock, we should not be instituting policies that disproportionately remove females from the population. Additionally, this policy is going to result in more fish smaller than 19 inches being thrown back into the ocean after being caught. As any fisherman can tell you, many of these fish do not survive being caught and thrown back in.

Again, if we're serious about increasing the population of summer flounder, why are we putting regulations in place that will result in more fish being killed? These are just a few examples of why so many fishermen are frustrated and lack confidence in the data that NOAA uses to guide quota reductions.

Anglers have sacrificed year after year, and have yet to see real benefits for their sacrifices. New Jersey has made its view on these reductions clear. I and other members of the Congressional Delegation, the Governor and Commissioner Martin, have made our voices heard. The State Assembly has also passed a resolution calling for status quo to be maintained until a new assessment can be conducted.

In short, these cuts are unjust; based on questionable science, and NOAA should reexamine how it conducts these stock assessments before making decisions that threaten the livelihoods of so many New Jersey anglers and communities. The Commission should act on this, and take any and all steps that it can to protect recreational fishermen; especially to minimize the negative impacts of these quota cuts. Thank you.

CHAIRMAN LUISI: Thank you very much for your thoughts; and please thank the Congressman for providing his thoughts for us here today. Okay I have a couple other names on the list; but it appears from what was written down that additional comments may be directed on the options themselves. I will ask Robin Scott, would you be providing thoughts on a specific option as we debate it after moving on through the agenda? Is that your intent? Okay if it is a different option then please, come to the microphone.

MS. ROBIN SCOTT: Good morning. I'm Robin Scott; Margate, New Jersey, I'm the owner of a very tiny bait-and-tackle shop, 54-slip marina, and I rent boats and charterboats for a living, full service. We sell Tohatsu outboards. We're starting year 59, so I am one of your astute scientists out there with numbers and size and weights and anglers; and how many fish they bring in. Your stakeholders are obviously people that can contribute.

I would like you to consider, I am here to support Commissioner Martin; the fact that he made the trip and has spoken so well with our issues in New Jersey. I am to go one step further. I propose that you add a new option of matching status quo in the state of Delaware from the 2016 season for fish at 16 inches, which would entirely eliminate putting the pressure on the female breeders while we wait for new representatives to be elected and confirmed. That would seem to be the option that would genuinely grow the stock and allow us not to take even more breeding females. Thank you.

CHAIRMAN LUISI: Thank you, Ms. Scott. That concludes the list for now. There may be an opportunity, depending on how long the discussion takes place at the Board to have additional public comment; once we have a motion on the table. But I will reserve the right to that comment, depending on time and how we move on.

Let's talk about that for a second. I think it would be an understatement to say that the issues in front of us right now are just important. It is coastwide in its reach and given the testimony we've already heard, there are certainly consequences that will come from decisions that we make today.

With that said, I just want to be mindful and I want you all to be mindful that we have about 40 minutes on the agenda for this discussion this morning. We have other boards that are meeting after this throughout the day; and I am going to do my best to try to focus our conversation to stay within the time limits that we have.

Just please be mindful of that. We have a few presentations that both Kirby and Greg are going to give. I am going to hold off at this point right now on any comments or any motions. But I am going to let Kirby get through his presentation, and then Greg is going to provide us some thoughts; and I'll look out to the board for motions as how to move forward. But before I do, I saw Mike's hand. Mike, do you want to make a point?

MR. MIKE RUCCIO: Good morning, and good morning to the Board. I don't want to get into a rebuttal of the comments that were offered. I appreciate those very much. I think everyone at the table, including the Service, appreciates the seriousness of what we're about to discuss; and no one enters into this lightly.

But I did want to speak a bit to the federal government's ability to issue regulations, because I think that is germane. It is true that right now we are under a regulatory freeze. However, we receive additional guidance daily. The work of the federal government continues. I think it would be critical that the Board continue its process, and that the Agency will continue its process.

We have numerous rules that are in process, slated for publication as soon as the regulatory ban is lifted. Certainly we'll work with whoever is appointed and selected to the political appointee positions within the agency; but the agency has not shut down, and I don't think it would serve us well to postpone, with the rationale being that we can't issue rules.

Our work continues, I think this Board's work should continue. We will have more information undoubtedly, by the time we're co-convened with the Council in Kitty Hawk. There is a process to even issue rules now. Certain exemptions are allowed, there is an additional clearance process with the Office of Management and Budget, so I just wanted to speak to that point specifically.

CHAIRMAN LUISI: Thank you, Mike for that thought. I may come back to you later, depending on how the conversation goes, regarding timing. I know that there is an issue with taking action dependent on Board action. If everyone remembers back in December, both the Board and the Council moved for conservation equivalency and for the Board to consider conservation equivalency. If conservation equivalency is not met we find ourselves in the position where NOAA would be looking to establishing the non-preferred alternative along the coast. I think the timing of all that is going to be important to our discussion later; so Mike, I might come back to you on that.

CHAIRMAN LUISI: But for now I'm going to turn to Kirby. Kirby is going to provide us a presentation reviewing the options on the public comment summary and the Advisory Panel report**;** so Kirby, when you're ready.

SUMMER FLOUNDER DRAFT ADDENDUM XXVIII FOR FINAL APPROVAL

MR. KIRBY ROOTES-MURDY: For the presentation I'm going to go through, I'm going to review the management options very quickly; as you have all seen this, a number of times, both in the public comment period and at the joint meeting in December. Get into the public comment summary, specifically those comments that were offered up during the last month.

Then I'm going to walk through the advisory panel report, and then focus on some of the discrepancies and language and tables that have come up through the Recreational Working Group's process, address those, and then I'll answer any questions. After I'm done with that then we're going to turn it over to Greg to give the Technical Committee report on the options in the addendum. After that's done then it's for the Board to consider final action on the document.

REVIEW MANAGEMENT OPTIONS

MR. ROOTES-MURDY: As you all know this addendum was initiated back in October at the ASMFC Annual Meeting, at the joint meeting in December the Board approved it for public comment. We went out for public comment last month, and today you guys are taking final action on this document; or considering final action on this document.

First I'm going to focus on the default approach within the summer flounder FMP, and then move on to the alternative approaches. As Mike mentioned, conservation equivalency was selected by the Board and Council in December.

Under that approach we have Addendum VIII, which lays out state-by-state allocations.

I'm going to put that up on the board real quick, just to show you again what those would be. These are based on preliminary data projected through Wave 6. Again, these numbers would change once we get final data; but this is preliminarily what the allocations would be if the Board defaults back to state-by-state management under conservation equivalency.

The other thing to keep in mind is that as part of our kind of default process for summer flounder, if a state or region doesn't implement measures to address the reduction the Board agrees to, precautionary default measures would be applied to the state or region. The Board and Council approved precautionary default measures of 20 inches minimum size, two fish possession limit, and an open season of July 1, through August 31.

Next moving on, I want to talk about the alternative approaches that are in the document, starting on Page 10 through 16. As you all know there are five alternative approaches, five options. Underneath each of them there is the ability to have it in place for either one or two years, and I'm just going to briefly walk through those again.

First, Option 1 is titled Fish Sharing. Under this approach regions that are under their 2017 allocation, based on 1998 proportions of catch, they stay status quo; in terms of their harvest levels and their management measures. For those regions that would be over their 2017 allocation, they take a reduction. By those other regions staying status quo, there are additional fish that allow for them to have a smaller reduction than they would if they were going at it state-by-state. Option 2 is where a one inch increase is applied across the entire coast. In this approach that adjusts the harvest targets for all the regions. Under this approach also, it should be noted that Rhode Island's reduction would be approximately 32 percent and not 34 percent. For the states of Connecticut through New Jersey, they take an additional reduction given their one inch increase would not still move them underneath the 2017 allocation of their pooled targets; and so they take further reduction in their season and bag limit.

Option 3 is where a 30 percent reduction is applied coastwide. For those regions that are over their 2017 allocation, which would be Rhode Island and Connecticut through New Jersey. They take the remainder of that reduction needed to keep harvest at the coastwide level to the coastwide harvest limit.

That means that their reduction is approximately 42.6 percent. Option 4 is similar to Option 3 in that it lays out that all regions would go up an inch in their minimum size; and as part of their 30 percent reduction process. For the states of Rhode Island and Connecticut through New Jersey, they would take the additional reduction that's needed as going up one inch as laid out in Option 2 wouldn't fully address the coastwide reduction.

Therefore, they would take an additional percentage reduction, which is approximately 42.6. Option 5 does not specify harvest targets nor does it specific regional reductions. What it proposes is that coastwide all regions with the exception of North Carolina go up an inch in their minimum size.

Additionally, all regions would have no more than a four fish possession limit. For the regions of Connecticut through New Jersey there is the potential for a three fish possession limit, but seasons remain status quo relative to 2016. Now for the timeframe, the timeframe option lays out that there are two approaches.

The first would be for whatever the selected alternative is that I just walked through. One of those five would be in place for one year, 2017.

The second timeframe option would be for it to be in place for 2017; and the ability to continue into 2018. It's a two year implementation timeframe.

PUBLIC COMMENT SUMMARY

MR. ROOTES-MURDY: Next I'm going to move on to talking about the public comment summary. As you all know there were public hearings held in the month of January through the states of Virginia through Massachusetts; 224 people attended across eight states. It should be noted that North Carolina scheduled a public hearings, but that there was no public attendance at it; so we haven't included it in this summary.

In terms of written comments submitted, a total of 4,334 comments were received. Nine groups and organizations provided comments. In terms of the total comment summary, a majority of the comments were in favor of remaining status quo; in terms of management measures relative to 2016. In terms of comments that were in favor of options that were included in the document, which status quo for all regions was not included as an option in the document, the majority of folks who were in favor of an option in the document was Option 5.

Options 1 and 2 were also noted as having received the second most support and commonly second choice, if say Option 5 was not selected. One thing to keep in mind is that I mentioned that over 4,000 comments were received. A majority of those comments were attributed to an online petition that was submitted, 4,101 signatures and comments associated with that were submitted in the public comment summary that was sent to the Board. That petition specifically outlined that coastwide measures should stay the same relative to 2016; and the catch limits for 2016 should be carried over to 2017.

But this is also laying out in this table here what the associated timelines that people indicated a preference for. As you can see that it didn't always add up directly, because people do not always give a timeline option with their preferred alternative for Options 1 through 5. Reasons sighted in support of staying status quo.

A number of comments focused on disagreement over the MRIP harvest estimates at the state, regional, and coastwide level. Additionally there were concerns over the economic impacts to coastal economies that Options 1 through 5 could pose to their region. Other concerns focused on an increase in the size limit would potentially target more females and further exacerbate negative impacts that are currently underway relative to the resource.

Other comments focused on the status quo should be in place until a new benchmark stock assessment is completed. For reasons sighted in support of Option 5, there is an interest in maintaining the current season length. There is also a tolerance indicated for going up an inch and that that wouldn't significantly curtail the fishery at the state and regional level.

But there was concern that Options 1 through 4 would pose more significant economic impacts to local economies.

ADVISORY PANEL REPORT

MR. ROOTES-MURDY: Now for the AP report. AP members from both the Commission and Council provided comments. Of the AP members who were in attendance, four indicated that catch limits and management measures should remain status quo relative to 2016.

Those concerns that were raised in support of that approach sighted similar reasons that I've already walked through; concern over MRIP estimates, economic impact, and disagreement over what the stock assessment results

indicate. Three indicated a preference for Option 5, and one indicated a preference for Option1, and two were in favor of Option 2 as a secondary choice if Option 1 and 5 were not selected.

All right so now I'm going to walk through some of the discrepancies in the language versus the tables. A few weeks ago the Summer Flounder Recreational Working Group, who helped pull together the options for this document, a number of members on that group brought up that there was a discrepancy in how the language was indicating the reduction that should take place; relative to what the table was showing for the reduction and the subsequent harvest targets.

One of the key things here is that there was a proportional reduction relative to an allocation, based on 1998 catch levels that were being applied; and not an equal reduction across those regions. For example, the state of Rhode Island in the draft addendum option, the tables indicate that they would have a 32 percent reduction approximately for Option 2.

When you apply a proportional reduction relative to their allocation, it is actually closer to a 59 percent reduction. For Option 3, it moves from a 43 percent or 42.6 percent up to a 51 percent reduction, and then for Option 4 it increases it from an approximate 42.6 percent reduction to a 58 percent reduction. The Summer Flounder Working Group came back and evaluated this, and they were of the mind that the group's intention was that the reductions listed in the tables was the intended way for reductions to be applied to these regions; and not by the prescriptive language in the text for these options. Greg is going to walk through later on the Technical Committee's review of that. Generally though, they agreed and confirmed that conclusion. Then subsequently the Recreational Working Group developed revised language and tables to address these discrepancies and make corrections.

As I said before, it's important to understand how these reductions change. The proportional reduction relative to '98 allocation is one where you're applying the reduction based on that allocation and not necessarily how that region performed in 2016; relative to the overage we would be seeing for 2017.

The other thing to keep in mind is that that approach also evaluates harvest from 2016 for 2017, as we normally do, to base regulatory changes on; and does not actually address how a region performed relative to their say projected harvest for 2016. That is an important point to keep in mind, because previous addenda that we've had on regional management have not specified and held regions to a target per se.

There isn't the ability to go back and try to hold states to a target that was not in place as part of the addendum. To help explain this a little bit further, I've given an Option 3 here. Under Option 3, every region takes a 30 percent reduction. Regions over their '98 allocation for 2017, again based on 2016 harvest, take the remainder of the reduction.

Now that means that there is an approximate 230,000 fish left over when all regions take a 30 percent reduction. To still move those regions that were over their harvest, relative to that allocation, down to the 2017 recreational harvest limit, there is a scaled proportion that we apply. Rhode Island's proportion of the '98 harvest is 5.7 percent.

To address this 230,000 fish that is scaled up to 9 percent. For Connecticut through New Jersey, their pooled allocation of '98 proportions adds up to approximately 60.4 percent. That's scaled up to 91 percent. Associated to that then we applied the additional fish. It is an additional

reduction that's added on top of the 30 percent reduction.

When you do that it increases the reduction disproportionate relative to that states harvest, when you compare it to the coastwide level. It doesn't account for the magnitude of harvest between the regions. For example, Rhode Island's share of the 2016 coastwide harvest was approximately 4 percent; but under this approach if you took the language literally, they would be taking a 51 percent reduction.

For Connecticut through New Jersey, their share of the 2016 coastwide harvest was approximately 82.9 percent. When you apply that proportional allocation for reduction, their reduction doesn't change significantly; given the magnitude of their harvest relative to the coastwide harvest.

It is important to understand that this change in the reduction for regions of Rhode Island would violate one of the recommendations the Working Group had, and that was to not have a region take more than a 50 percent reduction. Again, another way to look at this was these alternatives were developed as a way to ameliorate or improve the reduction scenarios that regions would be facing under state-by-state allocations. In terms of understanding an equal percentage reduction for Option 3, regions that are below their '98 allocation for 2017 take a 30 percent reduction. That would be the states of Massachusetts, Delaware through Virginia, and North Carolina. At a 30 percent reduction for 2017, their associated pooled target would be 185,000 fish. Regions that are above their '98 allocation based on again 2016 harvest would be responsible for the remainder of that reduction.

When you combine Rhode Island and Connecticut through New Jersey's harvest for 2016, it is approximately 1.83 million fish. Now, they need to then get down to the remaining harvest that is allowed to not exceed the 2017 RHL, which is approximately 1.05 million fish. To get from 1.8 to 1.05, is an approximate 42.6 percent reduction; when you apply that to each of the regions harvest for 2016, it is less of a significant reduction than if you were taking a proportional reduction based on their allocation.

I'm now going to walk through the revised language very briefly on this. There was a letter sent out to the Board on Friday last week that laid out revised language for Options 2 through 4, as well as revised tables. In that letter it highlighted where the changes in the reduction were, as well as correcting mathematical errors.

This option as I said for Option 2 starts by applying a one inch increase to all regions, and projecting the regional harvest that would occur for 2017. If a region's projected harvest is below its combined 1998 based allocation for 2017, which are the states of Massachusetts, Rhode Island, Delaware through Virginia and North Carolina, the projected regional harvest becomes the regions 2017 harvest target.

These regions take no further cut, and the reduction rate is then achieved by the one inch increase; and they forfeit the rest of their 2017 allocation projected to be unused. The region with its projected harvest still above its'98 based allocation for 2017 is the recipient of the shared fish; which is added to the 2017 allocation to generate its 2017 harvest target, and is responsible for the remainder of that coastwide reduction.

This is what the new associated table is with the corrections. As noted, Rhode Island's harvest reduction changes, in terms of the percentage. The harvest target for the states of Connecticut through New Jersey changes, and then Delaware through Virginia's harvest target is slightly altered as is North Carolinas.

Just for each of these three options I'm walking through, I have broken them out so that you

can hopefully see them better on the screen. They are included in the letter together. For Option 3, any region in which the 2016 projected harvest is below its combined '98 based allocation for 2017, takes a 30 percent reduction; again, the states of Massachusetts, Delaware through Virginia/North Carolina.

The resulting projected regional harvest becomes the regions 2017 harvest target. The regions in which the 2016 projected harvest is above their combined '98 based allocation for 2017, Rhode Island and Connecticut through New Jersey, are responsible for the remainder of the coastwide reduction. This reduction burden is shared equally among those regions.

This is the associated revised table. As you can see, Rhode Island's harvest target is slightly adjusted, but it has the same reduction percentage as Connecticut through New Jersey. Delaware through Virginia's harvest target in numbers of fish is slightly changed as well. All right, bear with me, and we're just going to go through one last one. The revised language for Option 4 reads that any region in which 2016 projected harvest is below its combined '98 based allocation takes a 30 percent reduction. This region must include a one inch size increase.

If a one inch size increase achieves more than a 30 percent reduction, these regions can liberalize other measures accordingly. The projected regional harvest from the 30 percent reduction becomes the region's 2017 harvest target. The regions in which the 2016 projected harvest is above their combined 1998 based allocation for 2017, Rhode Island, Connecticut through New Jersey, are responsible for taking the remainder of the coastwide reduction necessary to achieve the 2017 RHL.

This reduction burden is shared equally among the regions, and this reduction must include a one inch size increase. The last associated table that has been revised is Option 4's table. As you can see the reduction percentage changes slightly for Rhode Island, and the harvest target changes for Rhode Island and Massachusetts.

The harvest target changes slightly for Connecticut through New Jersey. It is the same harvest target you have for the revised Option 3 table, as well as Delaware and Virginia's harvest target matches Option 3's table. Those are the revised changes to the language in the tables for Options 2 through 4. I will take any questions now if folks have them.

CHAIRMAN LUISI: Everybody got that? I'll be now asking for volunteers to the Striped Bass Workgroup if anybody would like to join in. Let me just make a comment before we get into questions. Kirby went through all the details of how these calculations were done. But the point of it all is that as the workgroup put together the tables, we were using the tables as the means to deciding which of those options were reasonable to expect states to be able to implement.

In the draft document the text didn't necessarily match the math that went into calculating those tables. The point of going through all of this and the point of the letter that was sent to you with the revised language is that when we get to the point in time today, if we get to the point in time today, we were considering an option.

We need to clarify in that motion that we would like to change the language from the draft document to what Kirby just went through; as far as the revised language. It's hard to think on the fly when you're looking at all those numbers. But I'll tell you that there was a tremendous amount of work that went into making sure that we have a document where the text and the intent of the workgroup match the tables that are presented to you.

Just know that a lot of work went into this and I hope that summarizes. Instead of in the weeds

of the numbers, just that is kind of where we are at this point right now. Before we turn to the Technical Committee report, does anybody have any questions for Kirby regarding his presentation? Rob O'Reilly.

MR. ROB O'REILLY: Just trying to follow along here. Is this the first time that we've really gone back to the 1998 proportions and utilized those in the options, except for Option 5? For example, my understanding in 2014 was that whatever happened in 2013, as far as landings went, when we formed the regions, then that was the starting point. Then in 2015 that process was done again in 2016. This is I think the first time that using the basis of the 1998 proportions, and applying them to these reductions is somewhat different. I guess that's my question, but what I'm really thinking about is which of these options most closely parallels what has gone on before. In other words, if we just simply took the 2016 projected landings and seeded the regions with those landings, which option comes closest to that?

MR. ROOTES-MURDY: For your first question. My understanding is that when we drafted draft documents for Addendum XXV, XXVI, XXVII, they were also loosely based on the approximate allocation that regions would have pooled that were based on their 1998 proportions.

They were not hard and fast, and they obviously had variations; given that the efforts of regional management were trying to ameliorate harvest changes that weren't quite matching with a '98 based allocation. This addendum does lay out to your point for the first time, holding states and regions to effectively their '98 allocation for 2017 harvest.

Now that is based again on 2016 preliminary data. You are correct in that this addendum is the first time we've applied for a reduction purpose, looking at how they fared relative to their '98 based allocation. For your second question, can you repeat it again?

MR. O'REILLY: Well I guess the idea is you sort of answered the second question, but really which option might come closest to that now, to the way things were previously moved forward when we started regional management in 2014. If we think of all these options, which one is closest to what we were doing before?

Really in a way what I recall was some minor changes was sort of using the specific landings for a region, and then taking that landing say for 2014, and then in 2015 that was seeded as the starting point; and it went from there. Are we close to something like that now with one of these options?

MR. ROOTES-MURDY: I think that is a little bit of a judgment call, but my read of the document would say that Option 1 probably is the closest to that; because you have a number of regions that are being asked to stay status quo relative to their 2016 harvest, based in part on how they performed relative to their '98 allocation.

Option 1 is maybe the closest, but again the previous addenda for regional management was trying to move away from the '98 based allocations. That is the only other caveat to note that it's not exactly the exact same as what you would see in Addendums XXV, XXVI, and XXVII.

CHAIRMAN LUISI: Adam.

MR. ADAM NOWALSKY: If I understand, well first let me thank staff leadership, the working group, everyone here that has been involved in this process. It's been a very difficult one. Also take a moment to thank our Commissioner for coming down with the support of our Governor's office. It means a lot having that backing here, members of our public.

The question I had was, if I understood your comments regarding the discrepancy between the language and the tables. While we actually have three options labeled Option 2, Option 3, and Option 4, if we selected one of those options today, we would then have to select between the text and the tables; which in fact means those three options represented six options. When this document went out for the public, were they clear in what they were commenting on between the text and the tables? Do we have any guidance about what people were really commenting on?

It has been the history of this process to always go ahead when we talk about reductions, liberalizations. We've always gone through the process of approving methodologies, not specific numbers. Now we had the methodology spelled out in text, but we're supposing that what we're really going to do is approve the actual numbers that were in the document. Again, I'll get back to the question of did people comment; recognize that difference that there were really six options not three?

MR. ROOTES-MURDY: I think Mike touched on this earlier in that one of the points the Recreational Working Group came to in trying to evaluate this discrepancy was that when a document like this goes out to the public, the public generally focuses on the tables; because that is the best measure to evaluate what is going to change in their associated management measures from one year to the next.

In that regard the tables were very much more the intent of what the working group had wanted, rather than the language; and that is where though there is a discrepancy, the working group felt that this is the best approach, which is revising the language to match better the tables; which was the intended way of handling the reductions for Options 2 through 4.

The only other thing I would note is that this is a draft document, one that the Board always has the ability to further adjust; in terms of the options that are selected. In looking at Options 2 through 4, if that is selected by the Board, one of those options, the revised language can be offered up with the motion to clarify exactly what the methodology is; and it can be noted that the associated table with that revised language, it was provided to the Board last week, would be in consideration for the document.

CHAIRMAN LUISI: Bob.

MR. BOB BALLOU: First, I certainly want to echo your comments also shared by Adam Nowalsky regarding the really hard and impressive amount of work that went into getting us to where we are today. I'm acutely aware that this was a very heavy lift, and I'm really impressed with the strong shoulders that were employed to get us to where we are.

I think we're in a much clearer place today than we were, and again that's thanks to the awesome work undertaken by many. My question for you, Kirby, and I think you did an excellent job laying out the options. My reading of Option 2, comparing it to Option 3, is that when you look at the title it sounds like it's taking the same approach.

On the one hand using a one inch minimum size increase as the parameter, with regard to Option 3, using a 30 percent reduction as the parameter, but it seems clear to me that the approaches differ; in terms of how those are applied. I am really just looking for a yes or no answer here. Is it not true that Option 2 and Option 3 utilize different approaches? I'm just going to ask that question in that way.

MR. ROOTES-MURDY: Yes, you are correct.

MR. BALLOU: Thank you.

TECHNICAL COMMITTEE REPORT

CHAIRMAN LUISI: I'm going to turn now to Greg; who is going to provide us this Technical Committee report. We'll have time for questions for Greg, and then we'll be looking to take action in some way here.

MR. GREGORY WOJCIK: I'm going to wait for a second here for the slide to come up. Okay, the Technical Committee met via conference call on January 19, with a task to evaluate the options that were presented in Draft Addendum XXVIII. In this presentation I'll be summarizing what we covered in that conversation.

First of all we evaluated the discrepancies between the tables and the language describing Options 2 through 4. Kirby had just kind of covered this in some detail, but I just want to run through some points that the TC wanted to make. Next I'll go through the terms of references that were provided to us by the Chair of the Board.

There were four questions for us, basically to address the effectiveness of crafting measures to meet the recreational harvest limit. Then we can go over what steps may be needed in the future. Once we get through that I would be happy to address any questions the Board might have. In regards to Options 2 through 4 and the discrepancies that were identified between the tables and the language of the document.

The Technical Committee agreed with the working group in that the intent was to use the options as they were presented in the table, not the text. Now if the language were to be followed as originally written, it would have violated the guiding principles that went into the options. The TC noted that the intent of the Working Group was not to burden any region or state with more than a 50 percent reduction; in which case Rhode Island would have fallen into that category.

The TC also wanted to note that if the language in the document were strictly followed that Options 2, 3, and 4 would have virtually identical reductions associated with them. Now I'm going to be covering the terms of references that were provided to us by the Board. The first term of reference was to evaluate the effectiveness of the methodology that was used to craft measures; based on the previous year's harvest.

The standard method that we've been using, oh gosh for at least eight years now, takes into consideration the length of the season, the creel limit, as well as the minimum sizes. These are really the only tools that we have to work with at this point. In this formula you see here, we have X, which is the percent decrease associated with a season closure, and Y, representing percent savings associated with the size limits or the creel limit reductions.

When we use this formula, X plus Y minus X times Y, and what this really does is it takes into consideration any interaction that occurs when you change any more than one of these variables. Now, when the Technical Committee met to review our methodology, there were certainly some concerns with the effectiveness of these tools that we've been using. First of all with the season lengths reductions, the current method uses an average catch per day rate; which are calculated using the full waves harvest, and then it is divided by the number of open days. This basically assumes that each day in a wave is considered equal, and we know that isn't really accurate. Also, harvest could possibly be recouped at a later day. As for creel limit reductions, the Technical Committee agreed that it was the most difficult of the three tools to measure its effectiveness. Since there are very few trips in the MRIP data with anglers limiting out, there is also very little savings in the calculations. Reducing by one or two fish rarely provides much reductions; at least in the calculations.

Also, it doesn't necessarily accurately account for angler behavior changes. For example, it is possible if the creel limit was reduced, the anglers would be inclined to make less trips targeting summer flounder; which would result in a greater reduction than what was first calculated. Minimum size increases, they had the most confidence using this tool.

The MRIP length distributions are used to see what proportions of the fish would be released under a new higher minimum size. Finally, because of the timing the Technical Committee is forced to use only the prior years, preliminary MRIP harvest estimates through Wave 5. When we make these calculations the Wave 6 data is not available yet.

Also, the final estimates are generally not released until well after the states need to start making their final rule process. This has been problematic in the past, mostly because when final estimates are released they incorporate additional effort information from the for-hire vessel logbooks; which changes the harvest estimates.

It is possible that a 41 percent reduction that we're facing now could change slightly when the final estimates are released. Okay so based on this, what does the performance look like? On the graph you have in front of you, the black diving line, if you can see it, is the recreational harvest limit.

The gray thin line is the MRIP harvest point estimates. Then those are bound by the standard errors. The dotted red line is the PSEs that are associated with MRIP, and then the red line is out two standard errors. As you can see, there are very few years in which crafting these measures have really put us within the PSEs coastwide.

It looks like in 2004, we were pretty close. Then you need to get up to what 2013 and 2014 before harvest was close to the RHL again. It is really only three out of the last 16 years or so that we've been close to RHL. Then you can also see the 30 percent drop in the RHL that is going to be needed for next year.

Under Term of Reference 2, we were asked to evaluate the utility of a single year for state specific harvest allocations. This is really in reference to the 1998 based allocation, and what the challenges are just using a single year of MRIP estimates to set a base year; and what the problems it might lead to moving forward.

We've grouped these challenges into two categories; we have inter-annual variability and nonrandom changes in harvest. First of all the biggest challenge we've had is MRIP survey variability. I'm going to be getting into this in a little more detail further in the presentation. But basically, within any one given year estimates at the state level or at the regional level, they can fluctuate significantly up or down. Basically, what that can do is create winners and losers when assigning allocations. Second of all, the fish availability can change from one year to the next. They could be more available in New York one year, and then more available in New Jersey, say the following year. This figure compares to 1998 based allocation to what the harvest looks like over more recent years; the blue bars being the 1998 allocation, and the red bars the average over the last three years. Now, keep in mind back in 1998 all states had the same regulations, they were eight fish at 15 inches open year round.

Now, in more recent years the northern states such as Rhode Island, Connecticut and New York, have harvested a higher proportion of fish compared to the southern states. I would like you to take a look at Connecticut and Virginia as an example on how things have changed. In 1998 Virginia landed 17 percent of the coastwide total, and Connecticut landed 4 percent.

In 2016, the Connecticut regulations have had a two inch higher minimum size than Virginia; and a season that's one-third the length. Yet regardless, Connecticut's harvest is now higher than Virginia. Okay Terms of Reference 3, we were asked if the reduction targets in Options 1 through 4 were achievable using the standard methodology.

The Technical Committee broke it down into two groups and looked at both predicting harvest at the state and regional level, as well as the coastwide level. At the state regional level, it is just very difficult. For example, in 2014 through 2016, all the states had their consistent measures; but there were still extreme fluctuations in harvest within each state; up to 261 percent in one example.

Now, as far as the coastwide level, it is much more likely that we can get close, but it is still difficult to predict. Once again we had consistent measures over the last three years, but harvest estimates have fluctuated by up to 50 percent; and with consistent measures you would expect harvest to be relatively stable.

Now this figure shows the harvest estimate fluctuations under consistent measures over the last three years; relative to the three-year average. The first bar on the left, it shows the variations coastwide, ranging in each direction from the average by about 20 percent. The second one from the left is the Connecticut to New Jersey region, then there's the Delmarva region; which is followed by each individual state from north to south, Massachusetts through North Carolina.

This fluctuation in harvest estimates under consistent measures makes it difficult to craft measures that meet the RHL. Okay Terms of Reference 4, based on the previous evaluation of Terms of Reference 1 through 3, we were asked; what is the TCs confidence in using the standard methodology moving forward?

Basically the TC recommended making adjustments to methods in the future years for these reasons. The time constraints we have to deal with, the preliminary data isn't available until mid-December, which can change when the final estimates are released and then that really only gives us a few weeks to complete the analysis; and then finally the data limitations that I've outlined in the previous slides.

Okay so moving forward. The TC recognizes the 2013 stock assessment and its updates to currently be the best available science, and believes that there should likely be some sort of a reduction. We would also like to develop new methods in the future, possibly working on something over the summer. But first of all, the TC would like to consider using multiple years of MRIP data in crafting measures. Also, the MRIP harvest is in fact an estimate. The TC feels that the standard errors around the estimates should be incorporated into setting the measures. Also, the TC recommends using more broad strokes or uniform actions when setting regulations; such as what's presented in Option 5 of the addendum.

Finally, the TC wanted to point out that the problems we've addressed here are not necessarily limited to just the summer flounder; and there are other species that could have similar problems. Taking into consideration the TCs recommendations of incorporating the PSEs and using three-year averages, this is an example of how Option 5 meets the 2017 recreational harvest limit.

Using standard methodology, Option 5, which is a one inch increase in minimum size with the lower possession limits. It results in a 31 percent reduction. Using a three-year average of harvest, if 39 percent reduction is needed to achieve the RHL, instead of that 41 percent with a single year, so with a projected PSE of about 8 percent around the 2017 estimates; the Option 5 projections would put the RHL within a

standard error. That's it, if anybody has any questions.

CHAIRMAN LUISI: We'll take a limit of questions for Greg. Rob O'Reilly.

MR. O'REILLY: Thank you, Greg and thank you to the Technical Committee. I am well aware of how you've kept pace and really moved ahead in a lot of these approaches. I did have one question for you on your slide where you were comparing Connecticut and Virginia. A couple of days ago my staff looked at directed effort, and I submitted that to the Working Group.

It is fairly interesting in that directed effort where either that was the target species, summer flounder, or summer flounder were indeed part of what was caught. It showed some interesting trends there in that really other than Virginia, which is in evident decline in directed effort as we move forward through the last several years. Most of the regions or states within the region stayed somewhat flat. Did you have a chance to look at that?

MR. WOJCIK: Yes I did, Rob. I definitely agree with the observations that you had seen. It seems like the majority of the harvest that is being shifted towards the north is coming from Virginia. The effort sort of shows that as well.

MR. O'REILLY: As a follow up, is that a tool that the Technical Committee will maybe use a little bit more? It was even surprising to me in the Delaware/Maryland/Virginia region, Delaware had the highest harvest. I don't' know about the total catch. It did show that there was an upturn in Delaware with their directed effort as well. I'm sure you've talked about that. But if that's another way to sort of look at the progress of this that would be really good to know.

MR. WOJCIK: Thank you, Rob. That is definitely something that we could look a little bit closer to, as we're moving forward in the future.

MR. NOWALSKY: Two questions. The first is regarding the terms of reference. You had indicated at the beginning of the presentation that the TORs were provided by the Board; yet the TC memo says that they were provided by the Board Chair. I'm trying to get clarity. I don't remember the Board having specifically voted on these TORs. I think that they're certainly very good questions to ask, wherever they came from. I appreciate the TCs attention to them. But I just wanted to get some clarity on the source of them, and if they did in fact come from the Board Chair directly, if he could perhaps give some insight as to the thinking behind those specific questions. The second item I was hoping you could touch on, because it wasn't included as those TORs is that Option 5 presents three areas where there would be two inch divisions between neighboring states; Virginia/North Carolina, Massachusetts/Rhode Island, and New Jersey/Delaware.

But yet the whole impetus for regionalization was to bring states closer together, and at that time there was just one pair of states that had that great of a discrepancy, New York and New Jersey. We're now talking about moving to three separate neighboring states that would have that distinction, so I would like some TC input on that matter.

CHAIRMAN LUISI: I'll handle the first question regarding the terms of reference. I'll say that it was a timing issue. The proposal that was put forth after our joint meeting in December with the Council, there was a proposal put forth Option 5 from the state of New York. As the Work Group discussed Option 5, we needed some clarification from the Technical Committee on that option, as well as a consideration of achieving the RHL for the other option.

I worked specifically with New York to come up with those questions. Because of timing, the need for the Technical Committee to get to work right away without having a debate on

those terms of reference. I used my position as Chair to forward that to the Technical Committee. That is where we are with the terms of reference. The other question regarding the more technical work, I think I can go to Greg for that one.

MR. WOJCIK: Looking at the Option 5 and the example size limits. Basically it increases the minimum size by one inch across the board and for all states, with the exception of North Carolina. You're still going to have the same break from Massachusetts to Rhode Island; so it's just that one additional change.

CHAIRMAN LUISI: Okay I'm going to take two more questions and then we're going to need to move on. I had Chris Zeman and then I'll come to Nichola, and then we'll go to Mike.

MR. CHRISTOPHER ZEMAN: During Kirby's presentation he was saying how several of these options, states that were under their catch relative to the 1998 allocation would basically automatically lose that sort of credit, and it would be shifted to other states that exceeded their 1998 allocation or regions. Now in your presentation you said that there is an extreme variability every year for catches for each individual state. Do you see that as sort of a disconnect or a problem; in terms of achieving our targets, at least at more of a regional level or a state level?

MR. WOJCIK: Right so the variability that you're speaking about is much more evident at the state level. The more you end up combining the MRIP data, the smaller you see that variability. Regions seem to have much tighter grouping; at least looking over the last three years, and then coastwide seems to be the best.

MS. NICHOLA MESERVE: Thanks for the report, Greg and to the Technical Committee for its quick work every year on these issues for us. You reminded us that Option 5 has a 31 percent chance or a 31 percent reduction rate overall, estimated. Can that be broken down by the regions in the Option 5 table? It was noted at our public hearing and through other comment that the Option 5 table differs from the other options; and that regional rates are not shown, reduction rates. If those are available, it might benefit the conversation today if we had those. A second question if I may, while you're thinking about that. There was a comment in the Technical Committee's report that the TC agreed that Option 5 is more likely to achieve a 30 percent harvest reduction and Options 1 through 4 are likely to achieve a 41 percent reduction.

If we put those on the same scale of achieving a 30 percent reduction, would the Technical Committee have gone further to say that Option 1 through 4 have the similar rate as Option 5 of achieving a 30 percent reduction or a greater likelihood of achieving more than 30 percent?

MR. WOJCIK: First of all just for clarification, the Technical Committee felt that the 31 percent reduction with Option 5 was more accurate than the Options 1 through 4 and the 41 percent reduction. Not necessarily that they felt that 1 through 4 would achieve a greater reduction. The reason why they felt that they had more confidence with Option 5 is mostly because it is more of a broad stroke action across the coast, and also it utilizes just the minimum length mostly.

Like I had mentioned earlier, coming down a couple fish doesn't really add much to the reduction. For those reasons they were making a better estimate at 30 percent. Then back to your first question. Just a clarification, you're looking for the breakdown of what the percent reduction would be by region?

MS. MESERVE: Correct, similar to what was presented for Options 1 through 4 in the public document.

MR. ROOTES-MURDY: I think as you're aware, Nichola, we didn't include that in the draft document; because the intent of New York was to not have harvest targets for those. But I believe we can pull those together if that's of interest to the Board.

CHAIRMAN LUISI: Let's check where we are here. We've received all the reports that we were going to under Item 4 on our agenda; and I would like to at this point move towards considering final action. Oh, I'm sorry. Mike go ahead, I'm sorry, I missed you.

MR. RUCCIO: I wanted to thank Greg and the Technical Committee for their work on this. I very much appreciate the fact that the Technical Committee is also trying to move the ball forward a little bit. I know we've used many of the same methods for many, many years now; and I appreciate you guys thinking outside the box.

But that does leave me with a question, specifically on Option 5. The approach of saying that it falls within the standard error of the estimate is a new concept for us. I wonder; how do we have assurances that it will be at the point estimate or below and not above? You know when you look at the performance of the fishery that you had in one of the graphics earlier in the presentation, we have pretty routinely gone over the marks that we've set.

There can be a number of very valid reasons for that. But it gives me some pause when we look at one that on the onset is described as having a much lower percentage; in terms of outright reduction that we're trying to achieve on a coastwide basis. Then we're relying on it falling within one standard error. To me, which states there is equal probability that it could be above or below that point estimate. If it is at the point estimate or below, great we've achieved what we needed to in terms of the recreational harvest limit. If it's above then we've set ourselves up to not achieve what we've set out to do. I wondered if you could comment a little bit about how the Technical Committee approached that; what assurances there are that is a robust enough approach to ensure that we're not setting up to exceed the recreational harvest limit, if we're wrong in terms of where it falls in that distribution.

MR. WOJCIK: Okay so the Technical Committee's feelings were mostly that since the MRIP data was so variable that by trying to meet that point estimate was almost impossible. The way we looked at it is that the range between the two PSEs was really the target that we really should be trying to reach.

CHAIRMAN LUISI: Follow up, Mike?

MR. RUCCIO: Just a quick follow up and I appreciate that. But the challenge I think we have is the potential disconnect in looking at it that way, and how the FMP is constructed. We're beholden to a point estimate, in terms of the recreational harvest limit. We don't have the ability to look at a range for the recreational harvest limit. Certainly we can discuss this more as we move forward into the actual discussion on the alternatives.

CHAIRMAN LUISI: I think in moving forward, depending on what gets put on the board for discussion. We're going to need to get some clarification as to how GARFO would move on, in the event that certain options are selected; because of the risk associated with the consequence of a disapproval of a certain action.

Stay tuned, Mike. I'll probably come back to you here in just a bit. But with that said, I think it's time now we need to move away from question and answer and get to a more broad discussion about whether or not to consider final action. Looking at the time, I am absolutely guaranteeing you that we will not finish this discussion in 15 minutes.

But it was probably unrealistic to think that with a 40 minute time slot that we were going to get this done. With that said, I would like to instead of just opening the floor for discussion, I would like to actually turn to the Board and look around the table for a suggested motion. That way we can focus our discussion on that motion; rather than a more broad and general discussion regarding what we're going to do with Addendum XXVIII. I'll look to the table. Bob Ballou, oops Tom, I saw you, you were first. I'm sorry.

MR. TOM BAUM: I am prepared with a motion. I provided staff with a motion. It's up on the board so I'll read it. Based on what I've heard from the public hearings and our Commissioner, **I move to postpone Addendum XXVIII until confirmation of a new Secretary of Commerce and NOAA Fisheries can submit new regulations directly to the Federal Register.**

CHAIRMAN LUISI: Okay so we have a motion by Tom Baum, do we have a second on that motion? Again, is there a second on the motion; Marty Gary seconds the motion. Discussion by the Board, Tom, would you like to justify or provide comment to your motion?

MR. BAUM: I would. People who know me know that I'm not a man of many words; but that might change. The message we received at our public hearing and from Commissioner Martin is clear. New Jersey stakeholders just cannot survive more restrictive measures on its recreational summer flounder fishery. Size limit increased to 19 inches, equates to a 50 percent decrease in the available summer flounder in New Jersey waters. For years under state-by-state conservation equivalency, New Jersey opted to provide our anglers a reasonable size limit, by sacrificing the season length. Our Marine Fisheries Council always strived to ensure that the recreational summer flounder season was always open, at the very least from Memorial weekend through Labor Day.

Our March Council meetings were always very contentious when size, season and possession limits were debated; actually as state-by-state conservation equivalency came to an end, they were debating like four days, how to cut four days from either the beginning or the end of the season.

This management board has had numerous discussions concerning recreational regulatory discards, and I'm sure that that issue will be included and investigated in this ongoing comprehensive summer flounder amendment. But we need to decrease these discards now. Raising the size limit does not address this issue.

Up to 90 percent of the recreational catch is discarded, 90 percent. I can't imagine how high that percentage will go when we increase the size limit. It might go to 100 percent. I recall the answer to a question about stock assessments and dealing with uncertainty, and it went something like; we need to be certain about the uncertainty.

But right now there is a lot of uncertainty about summer flounder management that we are not certain about. I'm very fortunate that I share an office with Jeff Brust, he's our research scientist, and a lot of people around this table and in the audience know him. If you don't, well I have the highest regards for him.

When we ask him questions about summer flounder he'll say, I've watched him at his computer, well let me check on this option, and he'll be writing the code for the size and bag limit reduction. He'll do the table right there. That code used to be available from the Mid-Atlantic Council when MRFSS became MRIP; the code was not good any more.

But Jeff has worked on it. He did the calculations, came up with similar percent reductions as what is up on some of the options included in the addendum. When we discussed recreational harvest estimates just last week,

and how variable they were; obviously we heard that from the TC report. He pointed out that yes they are, but they are more variable within waves; more specifically Wave 5 has been highly variable.

Our season isn't even open the entire part of Wave 5, yet the estimates that are calculated could encompass a whole season; almost 200,000 fish in Wave 5 that's not even open for two months. I remembered that 25 recreational harvest preliminary estimates when they were published. They were the lowest in the history of the survey for some of the waves and some of the states.

I couldn't help but think, this is the direct result of the conduct of the intercept survey and/or the effort survey. I'll come to an end, thank you, Mr. Chairman; but today is groundhog day, and just like Bill Murray's character, Phil Connor, I am not looking forward to the next time I wake up and I hear Sunny and Cher's, "I Got You Babe" when that alarm goes off. Am I going to end up back in this room? I'll conclude. In this hotel, I get on that elevator and it just reminds me of dealing with summer flounder reductions as it says, "going down."

CHAIRMAN LUISI: Let me just remind the Board that a motion to postpone is debatable. However, the portion of the motion that is debatable is the time certain portion of the motion. The time certain here would be when NOAA Fisheries can submit new regulations directly to the Federal Register.

That's the portion of the motion that is debatable by the Board. I may look; I'm going to look around to see if anybody has any specific direction here. But again, this is a timing issue. I think we are faced with the challenge of finding ourselves essentially running out of time to make a decision as to how we move forward.

There are consequences of not moving forward, and delaying to the point where the Board does not achieve a conservation equivalency that NOAA will have no other choice but to implement the non-preferred alternative. As far as timing goes, this Board will convene again with the Mid-Atlantic Council in North Carolina in two weeks.

The next meeting of the Board will be in May. I look to staff and to GARFO to maybe consider timing and how this timing would work. I assume that if NOAA Fisheries gets the authority to move forward with new regulations; that the Board would need to convene in some way. But May might be too late for that. I'll look to staff. Bob, maybe Toni or Mike can give us some thought as to the timing of all this and how it might work.

MR. NOWALSKY: Point of order, Mr. Chairman.

CHAIRMAN LUISI: State your point.

MR. NOWALSKY: The point is I believe the motion actually has two elements of time certain; confirmation of a new Secretary and the ability to submit new regulations. I believe you had indicated the only time certain point was the ability to submit new regulations; if that needs to be clarified with the maker of the motion, I would ask you do so.

CHAIRMAN LUISI: I missed that Adam, thank you for pointing that out. I think both points there are of time certain. We'll state that for the record that we can discuss either point as a time certain. Mike.

MR. RUCCIO: I think we need some clarification on what is intended with the regulation here. Technically we can submit regulations now; they're just not going anywhere depending on the substance and content of what they are. We are able to currently effectively promulgate in-season actions, which are regulations. It is

hair splitting to a degree; but what's the intent here?

Further, the Secretary of Commerce appointment has no certainty as to when that will happen. Certainly confirmation hearings are occurring now. But it could be years. Under some prior administrations we've not had political appointees in place for the first seated year of the administration.

I just question how that is helpful to either the resource or the public to stick our heads in the sand and take no action. I don't see how this is productive or helpful. I understand the frustrations. We've had many conversations around this table about MRIP, about assessments. Many of the points that Tom made are ones that have come up frequently; and I understand that. But to the time specific elements of this motion to postpone, one has absolutely no certainty, and one I don't think is technically correct as it's written. We have issue with this.

CHAIRMAN LUISI: If I may I would like to ask you a direct question regarding timing again. If NOAA Fisheries feels as if we're getting further along into the season, in some cases the season has already begun in some states; and you're stating that you are able to, even though there are more hoops to get through.

But you are able to move forward and promulgate regulation now. Would NOAA Fisheries look to this delay as a problem for achieving the RHL, and you may take it upon yourselves with the uncertainty in the points in the motion, to moving forward without any Board action on the precautionary default that was determined back when the Board met with the Council jointly?

MR. RUCCIO: It is certainly something that we would have to consider. I think that we view it as we have an obligation under the Act to try to ensure that we're meeting the objectives related to mortality for the stock. As we discussed in December, the indications are it's not in good shape. It is subject to overfishing and it is perilously close to becoming overfished.

I think it would be irresponsible for us not to have management on the stock for this year, which this motion may result in. As to whether or not we would have to take a unilateral action to either implement the non-preferred coastwide or precautionary default; that is something that we would have to take a look at relative to what comes out here and the timing that's associated with it. But it's certainly something we would have to consider.

CHAIRMAN LUISI: Chris Zeman.

MR. ZEMAN: Contrary to NOAAs position, I believe a postponement is absolutely appropriate now, and will be very helpful. I do think the new administration should have the opportunity to review these regulations before these draconian cuts go into effect. This has been an experiment that has been happening since 2013.

This was supposed to be a one year measure to try this out. It is now into its fourth year. I was on the Mid-Atlantic Council back in 2013. I opposed this approach, because this plan was not prepared. It was missing key components and there was a lot of pressure to get to push that plan through.

I see now three years later we're seeing the results of that decision. We threw away a plan of conservation equivalency that had a longstanding history of complying with targets, 10 out of 12 years, I believe. We replaced that with a plan now that has been in place for three years and has failed to achieve its targets two out of those three years.

Now it was intended or it was proposed, it was advocated aggressively by the Regional

Administrator, the active Regional Administrator at that time to address the inequities of one state. Four years later we now have four states in crisis, including that one state. For these reasons I think we really do need to take a break here.

Really consider the track that we're going down; because frankly I think regional management is a disaster. We need to really address this. I've never been more concerned about the status and the management of summer flounder since I've been on the Council since 2009 to 2015. We had a long history of complying with our targets and stability. I'm seeing that now we're losing that because regional management seems to be shifting the responsibility of every state and diffusing it among regions. We're losing that direct ability where a state is responsible for its own destiny. It sets its own measures and it gets the benefits of its conservation. We have a system where those states that actually do.

CHAIRMAN LUISI: Chris, with all respect could you try to focus your comment to the time specific point of the motion. I don't want to deviate from it.

MR. ZEMAN: It is actually crucial this is reviewed. We don't want to just go through the motions here and then we go with another addendum; because 2018 will be no better than we are at now.

MR. EMERSON HASBROUCK: I have a question, in terms of where we would end up if this motion should pass. I'm looking at the language in the Draft Addendum for Public Comment that says that unless an alternative management approach is selected for implementation via this addendum, management of the 2017 recreational summer flounder fishery will default to state-by-state allocations regulations based on 1998.

That is what one paragraph says. The following paragraph says that under any alternative to coastwide measure implemented by the Commission, NOAA Fisheries has the authority to supersede those regulations; essentially going to the precautionary default measures. I'm not sure where we would be headed here.

I don't know if anybody has an answer to that; and if postponing action here does that just defer in a way what it said in the first paragraph that unless an alternative management approach is selected? It doesn't say by what time. What happens if we get to May or June and we haven't acted on this?

CHAIRMAN LUISI: Thanks for the question, Emerson; and I think that was the point I tried to make a little earlier and Mike clarified. If we approve the postponement here, and that postponement of taking any action on this addendum, if we have to wait until there is a confirmation of a new Secretary and NOAA Fisheries can submit new regulations, it is indeterminate as to when that time would be.

It is not that we are selecting in any way the no action alternative in the addendum. It is just we're putting on hold everything that is in the addendum right now for some future discussion. There is risk with that. The risk is that by taking no action NOAA Fisheries might take their own action.

The Board committed to conservation equivalency back in December with the Council. I view it as a hold. The hold could be for a week, the hold could be for six months; and as Mike alluded to a year, as to when we take final action. The timing is critical and there is risk associated with the timing of this.

If this motion were to fail, obviously we would have a discussion about the alternatives in the plan. If the alternative were selected for no action, we would essentially default to state-by-state conservation equivalency by not

continuing this addendum. In my mind that's how these pieces all come together. Do I have any other comment on the time issue of the motion? Rob O'Reilly.

MR. O'REILLY: Certainly have heard some good information this morning from New Jersey, both from Commissioner Martin, from the Governor's proxy and from Tom. I have to say that I'm bothered that there can't be some other avenue for New Jersey now. I was hoping, and I was concerned that the motion wasn't going to get seconded for a second.

But I was hoping that hearing Greg from the Technical Committee, and we could have explored that further, that there might be some other avenue here. I know this is about the timing, because what is the alternative to this? The alternative is not to delay. In order not to delay, what could New Jersey have that would give them a better sense that disaster wasn't so acute?

Just to go another little step further. Many, many years some of us have spent watching this situation where you have to make a target; and the success rate was really not good, as many of you know, all the way until about the last five years before we went regional. It is very difficult; you know that is why you're hearing things from the Technical Committee about Option 5 that might have more accuracy to it.

The other situation is that with all these situations we're in, we never come back and say; well, we needed a 28 percent reduction, we got 14 percent. Move on, let's go for the next round, and that's what we did for years and years. I think my opinion is the reason regional management worked is because the stock has been sliding.

I know everyone would like assessments each year and a benchmark every three years. We're pretty close to that. The benchmark was 2013, the update was 2015. I'm not going to repeat all the statistics, but suffice it to say the stock doesn't want to have us wait, I don't think, overall. I'm hoping there is something that we can consider and that New Jersey can consider that maybe with the right impetus, NOAA will look upon it as something that is reasonable. I think that is the way I look at this.

CHAIRMAN LUISI: I'm going to take one last comment, and then we're going to move on the question. David Borden.

MR. DAVID V. D. BORDEN: This will be quick. I'm opposed to the motion, but I have a timing question. The first opportunity we're going to have, as I understand it if this passes, in a perfect world if both of these criteria are met; we wouldn't meet again until May 1st. My timing question relates to the harvest. What portion of the harvest will have been already taken at that date? Can somebody in the Technical Group characterize that just using the historic data? I think it will help with the timing issue.

MR. ROOTES-MURDY: I think it's a great question, David. The problem is that when we're looking at the states that have over like the last three years been the largest contributors to the coastwide harvest, their season hasn't started until towards the end of May. While you have the states of Delaware through Virginia, and North Carolina open before that point. Their harvest is very small compared to the coastwide annual harvest. There is a certain percentage that would be harvested in theory, but to what degree it would be it is hard to pinpoint what that percentage would be.

CHAIRMAN LUISI: Let's take a one minute caucus and then we'll call the question.

MR. NOWALSKY: Mr. Chairman, if I may, the state of New Jersey had requested a roll call vote on this topic.

CHAIRMAN LUISI: We can do that. Let us get prepared for that and then we'll go around the table and call the question; after I read the motion into the record. We have a motion and it's been asked that we do a roll call. The roll call will be from the states of Massachusetts through North Carolina, and including the Potomac River Fisheries Commission.

Let me read the motion into the record. **Move to postpone Addendum XXVIII until confirmation of a new Secretary of Commerce and NOAA Fisheries can submit new regulations directly to the Federal Register. Motion by Mr. Baum, seconded by Mr. Gary**, and I'll turn to Kirby for the roll call.

MR. ROOTES-MURDY: Going north to south, the Commonwealth of Massachusetts.

MS. MESERVE: No.

MR. ROOTES-MURDY: Rhode Island.

MR. BALLOU: No.

MR. ROOTES-MURDY: Connecticut.

MR. MARK ALEXANDER: No.

MR. ROOTES-MURDY: New York.

MR. HASBROUCK: No.

MR. ROOTES-MURDY: New Jersey.

MR. TOM BAUM: Yes.

MR. ROOTES-MURDY: Delaware.

MR. JOHN CLARK: Yes.

MR. ROOTES-MURDY: Maryland.

MS. RACHEL DEAN: No.

MR. ROOTES-MURDY: Potomac River Fisheries Commission.

MR. KYLE SCHICK: No.

MR. ROOTES-MURDY: Virginia.

MR. O'REILLY: No.

MR. ROOTES-MURDY: North Carolina.

MR. CHRIS BATSAVAGE: No.

MR. ROOTES-MURDY: U.S. Fish and Wildlife Service.

MS. SHERRY WHITE: No.

MR. ROOTES-MURDY: National Marine Fisheries Service.

MR. RUCCIO: No.

CHAIRMAN LUISI: **Okay motion fails 10 opposed and 2 in favor.** Since everybody voted, or assuming there are no abstentions or no null votes. Okay back to the Board. Now that the postponement of taking action has been addressed, I will look to the Board for a motion regarding an option to finalize the addendum. Jim Gilmore.

MR. JAMES GILMORE, JR.: **I would like to propose that we adopt Option 5. Kirby has gotten a motion crafted before so we didn't have to waste time, so if you could get that up. Move to approve Option 5 (more coastwide consistency) from Section 3.2 with the removal of the following language: of particular note, Option 5 is calculated to achieve a 28-32 percent coastwide reduction (depending on the sub-option) less than the required reduction of 41 percent that Options 1-4 are designed to address.**

CHAIRMAN LUISI: Okay we have a motion; do we have a second on this motion? Matt Gates. Jim, would you like to speak to the motion?

MR. GILMORE: I'm proposing Option 5, because I sincerely believe this is the best most equitable solution for the difficult decision that we all face today in going forward. Again, it provides a viable fishery for all states in 2017, and hopefully in 2018. Just in terms of a little history, this marks my tenth year with this body; and the first meeting I went to ten years ago was on summer flounder and allocations, and how we're going to manage the fishery.

Back then it was sort of difficult. I thought the Commission was about cooperation, and there wasn't a lot of leeway back then. It was sort of every state for themselves. But then three years ago this body should be commended that we got into regional management, because we took a leap of faith; and it focused less on the numbers and more on trying to keep a viable fishery for all the states that were involved.

We initiated regional management then, and contrary to the comments around the table, I think it's worked very well. The stock decline is what the problem is right now, not so much that regional management hasn't worked. We've had a lot less ojida because we have consistent rules between New York, New Jersey, and Connecticut now. There have been some hiccups, but it works pretty well. Now in 2017 we are facing a 40 percent reduction, and again a coastwide reduction on New York's most important fishery; it's not only New Jersey's. But this reduction is two parts; it is 30 percent from the stock assessment, which we believe. We believe we need to take action. Ten or 11 percent whatever is from the MRIP estimates. We believe the data mainly for a whole lot of reasons. First off, the stock assessment looked good. A lot of the reports we were getting back up and down the coast was that fishing was not good this year; including personal experience. Then MRIP comes out and says gee, we exceeded the RHL. It makes no sense.

That is why Option 5 is looking into MRIP being a predictor. Dr. Jones spoke yesterday about the improvements to MRIP, and I think it's getting there; but it's not ready for prime time. We're not there yet to use this, because there is so much variability. It is supposed to give us accurate estimates of effort and harvest; and it is not doing that not yet.

Again, it is a very difficult survey to try to estimate millions of anglers and what they're actually catching. MRIP is a tool, but it's an imperfect tool; and we have to use that in management and look at it from that perspective that it's not exact science at this point, and hopefully someday it will. Option 5 looks at the stock assessment but challenges MRIP.

It essentially let's take a reduction that is really looking at a significant action to try to improve this. I'm just going to jump down a little bit here, because I don't want to get too long into this. But again it is keeping the fishery viable for all the states in 2017 and hopefully 2018. Options 1 through 4 to me are looking backwards.

We moved ahead three years ago when we went into regional management, and started managing the fishery with a more comprehensive and cooperative approach to it. We go back to those other options; they are all based on 1998. Three years ago we finally got past '98. It is 20 years ago. It doesn't really make any sense for management today, because of what the stock has done.

Just in terms of statistics, our fishery is a billion dollar industry, a lot of fishermen just like New Jersey. We're trying to keep it viable. We used to have 180 day season, it went down to 128 days. Options 1 through 4 give us a 59 to a 90 day season. Our industry is just killed under

that. All those options are not going to give New York a viable fishery.

Again I'll jump down to the end here and let some other folks jump into this. I just believe that the Working Group has done a good job at getting the concern that I've heard around the table that NOAA Fisheries may not accept it, because it doesn't meet the 41 percent required reduction.

I firmly believe it does. I think the TC has done a great job and that the Working Group got together and essentially if you look at all the variability with MRIP, I think that Option 5 not only gives a viable fishery and a fair distribution of that coastwide 30 percent reduction, it also takes into account that extra 11 percent.

Option 5 if we approve it, I think hopefully the NOAA Fisheries will accept that as being a viable option; because I believe it is. I've heard that they are considering it, and they've looked at that information. In summary, I just ask everyone today that we need to support Option 5 to continue to move forward. Take another leap of faith today like we did four years ago, and live up to the standards of the Commission of cooperating to keep us all in a viable industry and a viable fishery; and not go back to the best thing I can get for my state. We've given up a lot; I know the other states have. We appreciate that and we hope that cooperation continues today.

CHAIRMAN LUISI: Your point to not only quantitatively but the qualitative aspect of the Technical Committee work relates to your point about, in your mind this will achieve the desired reduction that's needed on a coastwide basis. Okay, I had Mark Alexander.

MR. ALEXANDER: I appreciate Jim's motion here. It is a hard choice that we all have to make. I recognize that there is a tremendous impact to the state of New Jersey, also the state of New York. Connecticut is a small player in our region, but it is no less important to us as well. Our recreational fishermen and our party charter industry are equally going to feel the implications of the choice we make here today.

I echo the concern about the MRIP estimates. We have had in our region static management measures for three years. For the first two years of those three years, our harvest estimates were pretty stable. Last year the harvest estimate doubled. We find that hard to swallow. At our public hearing for this addendum, our fishermen were unanimously adamant that if anything the fishing in 2016 was poorer than it was in 2015.

For our estimate to double is hard to believe and we're very skeptical about that estimate, we appreciate the work that the Technical Committee has done; especially in regard to the effectiveness of the various changes and the various management measures.

As distasteful as a size increase is for everybody, the Technical Committee did show us that size matters here, and that everybody going up an inch will very much increase the likelihood that if we implement this option that we will achieve a harvest reduction that is within the range of the PSCs. I hope that NOAA Fisheries recognizes that and takes that into consideration when they consider whatever comes out of the Commission's deliberations today.

MR. BALLOU: I would like to move to substitute, if I may.

MR. LUISI: When you're ready.

MR. BALLOU: I've provided this to staff, so if they could put it up on the board I'll read it**. I would move to substitute by adopting Option 2, revised by substituting the words one inch minimum size increase with the words 30 percent reduction.**

As revised, the option will require the regions of Massachusetts, Rhode Island, Delaware through Virginia and North Carolina to enact management measures for 2017 aimed at achieving a 30 percent reduction in harvest relative to 2016, and require the region of Connecticut through New Jersey to enact management measures for 2017 aimed at achieving a 43 percent reduction in harvest; relative to 2016. If I receive a second, I would appreciate the opportunity to speak to it.

CHAIRMAN LUISI: Okay we have a motion, do we have a second; Nichola Meserve. Bob.

MR. BALLOU: In accordance with the comments offered at the Rhode Island public hearing and the preliminary review undertaken by the Rhode Island delegation, Option 1 is our preferred approach. That said, we feel a variation of Option 2 as just moved, would constitute a more fair and reasonable compromise for all states and regions for the following reasons. I have ten points and it will take me about one minute to provide them to the Board. Number 1, it meets the 2017 RHL and is thus consistent with the 2017 fishery specifications approved by this Board at its December 13, 2016 joint meeting with the Mid-Atlantic Council. Two, it addresses the Board priority goals of ending overfishing and preventing the resource from becoming overfished.

Three, it maintains a regional approach to conservation equivalency, coupled with regional targets. Four, it applies as a minimum a uniform 30 percent reduction to all regions consistent with the 30 percent decrease in allowable biological catch for 2017; which was approved by this Board at its August 9th, 2016 joint meeting with the Mid-Atlantic Council, and which has already been enacted for the 2017 commercial summer flounder fishery.

Five, it applies a uniform 30 percent reduction in lieu of a uniform one inch minimum size increase; thereby affording regions the flexibility to adopt management measures that are best suited to address the needs and interest of their recreational fisheries. Six, it recognizes that a uniform 30 percent reduction applied to all regions.

It lowers the 2017 harvest targets for the regions of Massachusetts, Rhode Island, Delaware through Virginia and North Carolina to levels that are below their 1998 based allocations for 2017, thereby holding them to a more restrictive standard than they otherwise would be held to under 1998 based state-specific conservation equivalency.

Seven, it requires the regions of Massachusetts, Rhode Island, Delaware through Virginia and North Carolina to share the fish they would otherwise have had access to under 1998 based state-specific conservation equivalency with the region of Connecticut through New Jersey; resulting in a de facto transfer of approximately 240,000 fish to that region.

Eight, it applies an additional 13 percent reduction to the Connecticut through New Jersey region, as needed to achieve the coastwide RHL; resulting in a 43 percent total reduction for that region. But it also results in a final 2017 harvest target for that region that is 32 percent greater than its 1998 based allocation for 2017.

As such, the Connecticut through New Jersey region would become the only collection of states able to harvest in 2017 at levels that are higher than their 1998 based allocations. Nine, it recognizes that under management measures that remained unchanged in 2015 and 2016, harvest decreased significantly in the regions of Massachusetts, Rhode Island, Delaware through Virginia and North Carolina; while harvest increased significantly in the region of Connecticut through New Jersey.

Ten, and finally it results in an allocation of 80 percent of the entire coastwide RHL to the region of Connecticut through New Jersey, which is a huge jump from the 60 percent they were afforded collectively under the 1998 based allocations. Mr. Chairman, I cannot conceive of a more fair and equitable and reasonable way to manage the recreational fluke fishery in 2017.

CHAIRMAN LUISI: Let me just take a second to clarify. This is more so a hybrid approach of the two options, not specifically directing states to take a mandatory one inch size increase, but to deal with the 30 percent reduction in the way that they would choose to; the difference being between Option 2 and Option 3. The way it's laid out is that in the case that you presented the states of Massachusetts, Delaware, Maryland, Virginia and North Carolina don't differ from what's in the table; but Rhode Island would fall into the category of just achieving the 30 percent reduction, rather than what is shown here in the tables of a slightly higher reduction.

MR. BALLOU: That's correct, Mr. Chairman. It adopts the methodology of Option 2, rather than the methodology of Option 3.

CHAIRMAN LUISI: Let's take a few comments. Adam, did you still have a comment? You're on my list.

MR. NOWALSKY: I certainly do have a comment. I did have a question about the original motion, which I think is still relevant. I know it is not the motion on the board, but I'll ask it; because it may influence this, and then if I may make a comment. Option 5 included language below the table that stated, New Jersey's ocean waters effectively shall have a size and bag limit consistent with New York and Connecticut; even though they're not technically part of it.

We heard comments earlier that a region would be held accountable, and if they were not submitting measures that were consistent with the reduction needed that the region would be held accountable. Under the previous option contemplated prior to this substitute, how would New York and Connecticut potentially be held accountable should New Jersey's measures not be the same in their ocean waters as New York's and Connecticut's? Because technically they're not in the same region, but the document says that they shall have the same size and bag limit.

MR. ROOTES-MURDY: I think what gets a little confusing here is that this is a motion to substitute for Option 5, so it would really be to the motion maker whether they would allow for that change in having separate measures in Delaware Bay for New Jersey.

CHAIRMAN LUISI: Well Adam, I think to your point too, and I don't want to spend too much time on Option 5; since we need to focus on what's on the board. Given that New Jersey is within its own region, I would say that you could use, if a certain percent reduction is needed you could achieve that percent reduction with measures that are different from what are shown in the example.

MR. NOWALSKY: My reason for the question at this time still is that given that we're two layers deep, and we could according to Roberts Rules go three layers deep. I would entertain amending this motion to include a Delaware Bay option. But I would like to know what the complexity that would entail, relative to that constraint in the text about New Jersey having the same size and bag limit in its coastal waters.

CHAIRMAN LUISI: I'm going to pass that to the motion maker. I would rather not go three layers deep, but I'll look to Bob to see if that's something that could be considered here.

MR. BALLOU: I would strongly support an added provision addressing the Delaware Bay issue, essentially the issue that Adam Nowalsky is raising. In terms of how best to do that in terms of crafting the language that would achieve it, I don't have anything prepared. But I certainly feel it is consistent with the substitute motion; and I would strongly support it.

CHAIRMAN LUISI: Nichola.

MS. MESERVE: Yes that's fine and I would note that this revision to Option 2 actually frees up more fish to be shared with Connecticut and New Jersey, thus making it very easy to accommodate the small change in harvest for the Delaware Bay part of New Jersey.

CHAIRMAN LUISI: Given that both the motion maker and the seconder have supported the idea, I hate friendly amendment but I think we can maybe take that as a friendly amendment here, and we can have staff work on language while we get some other comments around the table. I have Jim Gilmore then Rob O'Reilly. Jim, if you could focus comment to the option that is on the board right now I would appreciate that.

MR. GILMORE: Will do, Mr. Chairman. Just to Bob Ballou's comments. First off as I said before, 1998 its 20 years ago, we have an amendment before the joint Mid-Atlantic Council and the Commission to finally get past that because it is not useful data any more. The more important, I'll give you Point 11.

If we go with Option 2, New York, New Jersey and Connecticut get a 96 day season three-fish bag limit. Rhode Island has 184 day season and an eight-fish bag limit. That will create chaos on the border waters of Block Island Sound, Long Island Sound, and the South Shore of Long Island and all the Peconics.

That is exactly what we need to get away from. We got into regional management to prevent all of this chaos between widely different limits between different border waters. Adding that in is going to have economic impacts, and it is going to create a whole lot of havoc on the east end. I am opposed to that motion.

MR. O'REILLY: I am opposed to the motion. I know that we say things and different people hear them differently, but providing fish, sharing fish is great. Freeing up fish depends on the circumstance. I am worried with taking the original Option 2 and modifying it that it puts us in a position in the Delaware, Maryland, and Virginia region that we face some serious problems.

I liked where Bob Ballou started that he liked Option 1, because the Virginia anglers liked Option 1; and it went on from there. But I think the way things are going, I mentioned earlier Delaware had 95,000 fish more than Virginia, and more than Virginia and Maryland perhaps; I would have to look at that.

But nonetheless, there has been a shrinking situation. The days of worrying about an 800,000 fish target being eclipsed are over; that was a decade ago. But nonetheless, there was a fair 2014 year class. I would hate to see us that vulnerable that we would even drop down from 140,087 fish and drop down there to 134,145.

That means Maryland and Virginia would have 40,000, and I just can't support that. I am remiss for not pushing harder back in 2014 that we had a contingency plan for all this; because now it's too late. The idea that we could have reset these targets from 1998 to the advent of regional management would have been a wise thing to do; because it would give some security in a disequilibrium stock. But that didn't happen, so Jim Gilmore's comments are correct.

CHAIRMAN LUISI: One last comment and then I'm going to call the question. Chris Batsavage.

MR. BATSAVAGE: While I appreciate the motion doesn't require a size limit increase as part of that reduction, I can't support this motion. As has been discussed in prior meetings, flounder management in North Carolina gets complicated; where we have the same regulations for summer and southern flounder.

Here lately southern flounder management has kind of taken precedent over summer flounder; although it's been the other way around in the past. Basically what would happen with 30 percent reduction, you see on the table, it would reduce our already very small harvest. It would also have a very significant impact on southern flounder harvest as well; which goes against the current management in place.

Kind of going back to that management real quick, through our southern flounder fishery management plan, we were supposed to have an October 16th through December 31st recreational harvest closure. However, those measures and other measures weren't implemented due to a lawsuit and an injunction that stopped those.

We don't know what the status of all that is, whether that will go back in place. If it did, for instance in 2016 it would have accounted for about 20 percent of our summer flounder harvest; so it would have a secondary benefit of kind of holding our harvest set at a low level, or at least keep it in check. Since that is uncertain and having to go another 10 percent beyond that to reach the reduction for summer flounder, and their impacts to southern flounder is just more than we could really feasibly do; so therefore I can't support it.

CHAIRMAN LUISI: I do apologize. Mark, I had you on my list. I skipped you by accident, so Mark Alexander and then I'm going to go to Mike; and then we're going to caucus and vote on the option.

MR. ALEXANDER: I oppose this motion. The region from Connecticut to New York is in this position because of two things, one is some questionable MRIP estimates, and the other is that the shift in abundance to this species has put us in harm's way. I think that as these options were developed by the working group, the intent was to try to move away from state-by-state management; based on the 1998 shares. I think that this option draws us more back in that direction. I think to truly address the issues in this fishery for this year; I don't believe that this option is fair and equitable for our region.

CHAIRMAN LUISI: Mike, did you have one last comment?

MR. RUCCIO: We plan to abstain on not only the motion to substitute, but probably all of the alternatives that are under consideration; and part of the reason for that and what I wanted to say. It was germane, maybe more so to Option Number 5, but possibly even to this one is, under the conservation equivalency regulations the Regional Administrator makes a determination that conservational equivalency has been achieved.

The basis for that determination is a recommendation from this Board. As options are debated, we will need to, whatever system is finally enacted, understand that that has from the Board's perspective both through their gut feeling in some of these and through analysis and explanation, has achieved conservation equivalency. That usually comes in the form of a letter. But on the specifics of which alternative, we're going to abstain on those and then we'll make our judgment on the determination whether or not conservation equivalency has been achieved by what we get back from the Commission.

CHAIRMAN LUISI: Thanks for clarifying that Mike. Toni, did you have a point of clarification?

MS. TONI KERNS: I just want to clarify to the Board that under the way this option is established, New Jersey is a part of the Connecticut through or the New Jersey through Connecticut region, and that they have a provision within there to adopt area mode specific regulations within that region. But they are still part of the region, so if one state does not put in place measures that are conservation equivalent it impacts the whole region; is the way the addendum is set up, versus that just impacting the state.

CHAIRMAN LUISI: The way I see this though is that New Jersey would have the option for a Delaware Bay fishery and size limits, as long as all the other states within that region were afforded that same opportunity. They may not enact that opportunity, but they would be afforded the opportunity.

MS. KERNS: That is correct; and the cumulative regulations from the region add up to what the reduction is needed.

CHAIRMAN LUISI: Okay thanks for that clarification Toni and Bob. Let's take a one minute caucus and we'll come back and call the question. Okay so back to the Board. While in Kirby's presentation earlier he addressed that there was considerable discussion and comment raised by the public through the public comment process.

I will entertain public comment, but I'm only going to take one comment in support of and one comment in opposition of the current motion that we're about to call the question on. I would ask that you keep that comment to two minutes. I'll look at the room right now. Is there anybody in the audience that would like to comment in support of the Option 2, as modified? Okay seeing no support. Frank.

MR. FRANK BLOUNT: I would like to speak in favor of this motion. I think Bob Ballou laid out a very, very good case there on the ten points. If you go through the last few years, I'm going to represent the party and charterboat side, especially the party boat side. Party boat landings are down to about one-third of what they used to be.

The private shore mode is down to about a third of what they were. The problem we're seeing now, whether it's the data or the fishery, is the private recreational anglers catch has not changed significantly. It has gone from 2.1 million fish to over 1.8. There is a reduction, but the other two modes are down to about a third of what they were.

We don't have specific regulations for party and charter. Well we do have specific regulations for the shore mode in some states. I think this motion addresses some of those concerns with the shore mode and the Delaware Bay and how that works down that way. I know people say we're 20 years away from the 1998 allocation, which we are. In this motion it changes that allocation from 60 to over 80 percent for those states. If you're fish sharing, I think this does accomplish that. The comment was made with the different regulations between the states. Massachusetts and Rhode Island have had different regulations for years with different size limit, and we've had no problems there. There are problems between New York, Connecticut and Rhode Island; I've perceived problems there. I do feel bad. Most of my good friends live in New York and they're here in the room today.

But this motion and what this Commission and Council have done for the last few years has not addressed the problems. The fluke amendment has been on the board for years, and the Council has chosen not to do anything with it. I urge that you move forward with the amendment and I also urge that you would support this motion. Thank you.

CHAIRMAN LUISI: Thank you Frank. I will look to somebody speaking in opposition. Tony DiLernia.

MR. ANTHONY DiLERNIA: I don't support the motion. The primary reason why I don't support the motion is because recreational fishermen want the opportunity to go fishing. It's that simple. When a fishery is closed they can't go fishing. Option 2 for most of the states, well for Connecticut, New York, and New Jersey, the number of days available for fishing opportunities goes down to 96 days.

That cuts right into when summer flounder are typically available in those waters. At the same time it gives Rhode Island 184 days of fishing opportunity. Well, quite frankly that covers the entire time summer flounder are in the waters of Rhode Island. Option 5 gives the states of Connecticut and New York, New Jersey 128 days; which still cuts into when the fish are available to the recreational fishermen of the state.

But it gives them more days than Option 2. By the way, Option 5 gives Rhode Island 245 days of fishing opportunity. Summer flounder are not in the waters of Rhode Island that amount of time. What this comes down to in a sense is for some states well, good for us, hooray for me; and for other states, well too bad for you.

That's what Option 2 does. I don't agree with that. I think that Option 5, which gives the maximum number of fishing days to the entire recreational community along the coast, is the way we should go. I understand New Jersey's issue with the minimum size of 19 inches in ocean waters.

Perhaps if Option 5 is passed, the Board can later on revisit the concept for something New Jersey has been asking for, for years. Whereas, I believe Barnegat Bay south that the minimum size be more consistent with the Delaware Bay regulations. That is something I believe has merit and should be examined, but only after Option 5 is adopted.

CHAIRMAN LUISI: Okay we're going to come back to the Board, and during that public comment I received some guidance from the Service, and staff is going to provide us the thoughts on the guidance from the Service.

MS. KERNS: In thinking about how we did this last year, we allowed New Jersey to be their own region. Part of the rationale for having New Jersey be their own region is because in the Council framework to do regions, all states within the region have to have the exact same size, bag and season. In order for conservation equivalency to work under the federal plan, all the regulations have to be the same. Under this option, if New Jersey were to adopt separate regulations for Delaware Bay, then there would be different regulations within the region and that would not work for the federal government; under the framework that the Council has for regional approach. In order for this to work in both state waters as well as federal waters, we would need to have New Jersey be their own region.

CHAIRMAN LUISI: Are we able to modify this, Toni? Was there a thought as to how we would modify this motion to make it clear that New Jersey could and will be their own region, since it hasn't been analyzed?

MS. KERNS: I could give it to you in words; I couldn't give it to you in percentages and numbers. Do you want me to give you words?

CHAIRMAN LUISI: There have been a lot of words today, so yes words are fine.

MS. KERNS: And require the region of – I'm going to say it slowly for Amy – Connecticut through New York and the region of New Jersey to enact management measures for 2017 aimed at achieving a 43 percent reduction in harvest relative to 2016. The table would no longer

apply, because I don't know what the numbers would be and I don't know how you would share those 240,988 fish. I don't know how to proportion all of that out on the fly.

CHAIRMAN LUISI: I understand that and it is the reason why sometimes on the fly doesn't work best for the Board. They should have been thinking about this as we developed these tables. It is a hard thing, because you certainly have an intention. There was support for that intention to be included.

But not knowing now what that table looks like I think is a challenge for the Board. In my mind it is. I'll leave it at that. Given that we made an adjustment here to the motion, I'll look to the Board for any particular comment before we call the question. Seeing none; is there a need for another caucus? All right seeing none; I'm going to go ahead and call the question. I guess I need to read the motion into the record first. **Move to substitute to adopt Option 2, revised by substituting one inch minimum size increase with 30 percent reduction.**

As revised the option will require the regions of Massachusetts, Rhode Island, Delaware through Virginia and North Carolina to enact management measures for 2017 aimed at achieving a 30 percent reduction in harvest; relative to 2016, and require the region of Connecticut through New York and the region of New Jersey to enact management measures for 2017 aimed at achieving a 43 percent reduction in harvest relative to 2016, and that states within a region may adopt mode or area specific regulations; as long as they are afforded to all states in the region.

Is the Board ready for the question? All those in favor of the motion to substitute please indicate by raising your hand. **Two, all those opposed like sign, it is eight opposed, any null votes, any abstentions; two abstentions, the motion fails for lack of majority. We are now back to the main motion, any comments on the main motion?** Eric Reid.

MR. ERIC REID: I just have a question. Because of the nature of this motion, this is new ground; where 28 to 32 percent equals 41 percent in some magic math. I love magic math. But what happens if we approve this and the Service says no?

CHAIRMAN LUISI: If we approve this and the Service says no, the non-preferred alternative, which was agreed upon in December; jointly with the Council, would be what the Service would implement on a coastwide basis.

That motion would establish, based on the motion a 19 inch total length minimum size fish with a four fish possession limit and an open season from June 1st through September 15th; would be what the coastwide measures would be, with the caveat that when final MRIP estimates are available that 41 percent reduction may change and that the non-preferred alternative may therefore change, as it relates to the MRIP estimate from 2016. That was part of the discussion on what I had mentioned earlier about risk, and Mike spoke to the issue.

We heard the Technical Committee report that their both quantitative and qualitative approach to this is something that they feel confident in. Mike Ruccio mentioned that in order for us as a Board to be seen as achieving conservation equivalency, we would need to state that this option achieves conservation equivalency, and we need to be confident in that; not only using quantitative approaches, but more qualitative approaches as well, given MRIP estimations and error around the point estimate. I'll leave it at that for now. Toni and we'll come back to you, Jim.

MS. KERNS: Mike, I just want to ask a clarifying question to Mike Ruccio. Would it be the non-preferred or would it be the actual coastwide

measure that was established? Not the precautionary default, but the coastwide measure, which I believe – I thought it was 20 inches – but I could be wrong.

MR. RUCCIO: Happy to clarify. The precautionary default is 20 inches, two fish, July 1st to August 31st. The non-preferred coastwide was 19 inches, four fish, June 1st to September 15th.

MS. KERNS: Which one would you enact?

MR. RUCCIO: If the Board were unable to achieve conservation equivalency, we would implement the non-preferred coastwide measure.

MS. KERNS: And if you did not agree with Option 5, what would you pick?

MR. RUCCIO: I believe it's the non-preferred coastwide measure. The precautionary default, if you kind of sort through when Framework 2 I think it was, was put into place. There were some concerns that perhaps states would not comply with the Board's development of measures; and so the precautionary default is more of a backstop for a state that either was unable to or unwilling to implement measures that were agreed upon by the Board.

There is I guess a variation on a theme. If the letter came to us and said we've achieved conservational equivalency for all states except X, the Commission would actually recommend that we implement the precautionary default for that state. Then it would be up to its own devices to consider whether it needed to consider finding noncompliance and so on.

CHARIMAN LUISI: Thanks for that clarification. Do we need to caucus? I think we may. Jim.

MR. GILMORE: Just one addition to that. I think it has been stated a little bit too black and white in terms of how we do this. A few years ago in San Diego, when we met with the state directors and NOAA Fisheries, we kind of established that we actually, we're not even partners in managing this fishery, we're allies.

I don't think we're going to give them Option 5 and then wait anxiously until something comes out the other end. Any of that decision by the federal government will be iterative, and we're hoping that that process or whatever will get us to where we need to go. Again, I think it is the required reduction. If they can do it quickly enough, if there was an issue with it that it couldn't accept that I imagine we would still have an emergency option to come back to this Board and put up another option.

MR. O'REILLY: The last thing Jim said is what was on my mind as to why we didn't have a backup option; just in case. More and more I feel from my perspective that Option 1 would be a choice for Virginia, but this is the first time being in a region that you have three different states trying to decide something.

Option 1 is not going to be something that I'm going to move forward. I have stated before that I do like Option 5, because I've been through the mill, as some of us have, trying to either liberalize or reduce with lack of success. I think Option 5 sort of gets right at the heart of that. But I don't know whether what Jim said about having an emergency has to be that way, or should today if it is at all possible can we even have a backup option; should these coastwide default be put in place, because that certainly would be not very palatable down the southern end.

CHAIRMAN LUISI: Rob, if that's a question for me, I would see a backup option as weakening the position that the Board would take with the Service as to what Option 5 is. I'll leave it at that. I don't have any other comment regarding having a backup for that. I see hands going up. Folks, we do need to wrap this up. We're well outside of our time allotted. I do understand

the importance. I'll take a couple more quick comments, and then we're going to have a caucus and then call the question.

MR. BALLOU: This is déjà vu all over again, because this discussion we're having right now is very reminiscent of a discussion we had at our meeting in December. The Addendum on Page 9 under 3.1, Default Management Approaches states; Unless an alternative management approach is selected for implementation via this addendum, management of the 2017 recreational summer flounder fishery will default to state-by-state allocations based on 1998 harvest in order to restrict harvest to the RHL.

I need clarification as to what would be the ramifications of this option not being approved by NOAA Fisheries. Would the default be to our 1998 based conservation equivalency program, or would it be to the measures that Mike spoke to; in terms of the precautionary default or the coastwide measure?

MR. LUISI: If NOAA Fisheries does not approve the selected option, it is of my opinion, and I can be corrected that the non-preferred coastwide measure will be put in place. The only way to return to conservation equivalency at a state-by-state level is to move on Draft Addendum XXVIII with the no action alternative. By taking no action at all on this addendum, we now default back to the prior to regional management, because this is a continuation of regional management into 2017. The only way to get there is to vote on the option of no action in this addendum. Okay, Nichola.

MS. MESERVE: I just wanted to turn the question to staff as to whether they agreed to the timeline that has been suggested for the ability to come back and select a default measure, in the event that NOAA Fisheries determines this does not achieve conservation equivalency. Without a commitment today from NOAA Fisheries, I am really struggling to even consider this option, because of the risk of the coastwide measures.

Other than that I am concerned that this option does also not revise the RHL or the Recreational ACL, which is what we will be measured against down the road; in terms of the accountability measures. There is a risk down the road as well of reduced harvest limits, because of those accountability measures from the action that we take today.

Lastly, while there has been hesitation to say what the resulting reduction rates are per region from this option; it is notable that Rhode Island, for example, ends up with a projected harvest or target, whatever you want to call it; that is 34 percent under Option 5, and Connecticut through New Jersey's is 32. As you've said, 83 percent of the coastwide harvest in 2016 was attributed to that region. If we're not taking the cuts there then whatever we do along the coast is not going to make a difference, in terms of achieving the RHL.

CHAIRMAN LUISI: Regarding your question about how with process if NOAA Fisheries does not support Option 5 if it were to pass, would there be a process for which the Board could have an emergency meeting and select another alternative. I don't know, Bob, if you want to address that.

EXECUTIVE DIRECTOR ROBERT E. BEAL: There definitely is a process where the Board can get back together and take additional action to decide what the next alternative would be, if this one is not accepted by NOAA Fisheries. The question is what would that venue look like; would it be a conference call, which is kind of cumbersome and unwieldy?

Would it be a face-to-face meeting, which would be difficult to schedule. NOAA Fisheries probably isn't going to make this decision over the next few days. We may not know for a little while, and that may get us close to the May

meeting anyway. The timing of this probably is a bigger part of the decision than can we get back together.

We can definitely find a way to get the Board back together, it's just we don't exactly when to do that and we don't know the outcome. Given your statement that as a Chair you're concerned it would weaken your position to do that now, and kind of dilute the Board's support for Option 5. Then maybe we wait, see what NOAA Fisheries says, and then react to that through another meeting or some other opportunity to get back together.

CHAIRMAN LUISI: Okay so there is a process for which, if an addendum is finalized that you could go back and revisit the selected alternative in an addendum without initiating a new addendum and going through a full public process. I guess that was more my question.

EXECUTIVE DIRECTOR BEAL: Yes. Given the conversation that's on the record right now, and the Board is doing this with the realization that in order for this to be effective NOAA Fisheries will have to recognize this action taken by the Board and accept the conservation equivalency statement from the Commission, then I think the record is clear that if this doesn't work the Board is going to have to do something else.

CHAIRMAN LUISI: I have one last comment with Adam and then we'll finish up with you, Mike and then we're going to move on.

MR. NOWALSKY: The comments we've heard from New Jersey today notwithstanding, let me just offer that I am heartened by a lot of the things, not only have I heard but a number of actions that I've seen, documents I've seen. TC documents finally recognizing in paper, in writing for us to consider that the process we have of using the previous year's landings to project next year's landings simply don't work. Whether it is a function of that process, a function of the data, something combined. (beep)

CHAIRMAN LUISI: I'm sorry, Adam that was my mistake. I was just turning off my microphone.

MR. NOWALSKY: Was that retaliation (beep). I see where this is going. Apparently my good luck comments this morning were not well received. That being said, I remain heartened by the fact we're finally realizing that. I do not believe in my heart that there have been any ill intentions of the last ten years of our attempts at management.

But that being said, our management program has failed us. Our management program has failed the fishermen we represent, and now today more so than ever the management program is going to fail the resource by directing efforts onto the biological reproductive capacity of the fish. That is just a terrible statement to come from this Commission.

We heard the comments that this option was going to go ahead and provide a fishery for every state that this would affect. The Chairman made the comment about the earlier motion to postpone had risk inherent in it. Well let me tell you what, this option has no risk. It will destroy the fishery in New Jersey. It does not provide a sustainable option. It should come as no surprise that New Jersey will not support this option. We've heard some comments around the table today about a preference for Option 1.

I might encourage some more debate and discussion about that on the merits of the fact that it keeps a majority of states that this would affect at status quo; which is a position that New Jersey has advocated for. I think it would behoove the Board and those states that have considered it, to further put it on the record and have more discussion about it.

CHAIRMAN LUISI: Okay I'm going to take a one minute caucus; I'm sorry, Mike.

MR. RUCCIO: You can feel free to beep me off too if you need to, people might welcome that. I just wanted to speak a little bit to the concerns that we've heard around the table about what the Service may or may not do; with specifically this alternative. Let me try to be as clear and as transparent as I can be.

The way the conservation equivalency process works actually shifts quite a bit of that burden back to this body, the Board. We're awaiting a recommendation from the Board that conservation equivalency has been achieved; the white smoke. What we need to have is documentation that explains how these measures, or whatever measures are ultimately decided upon, are in fact going to be the conservationally equivalent measures that ensure that we have a high probability of achieving the recreational harvest limit.

Earlier today you heard me raise some concerns about relying on the percent standard error or one standard deviation and the RHL falling within there. I think we need to better understand the Technical Committee's analysis on that and their thoughts on that; as I phrased it earlier, the assurances that it won't be on the high end of the range.

We'll be looking for that kind of documentation, but that's going to come from this body and this body's staff. Our determination to implement conservation equivalency becomes a function of the documentation that we receive that give us assurances that the measures that are put forward are going to work.

In years past it's been this very formulaic approach, where here's the percent reduction that's necessary, here is the percent reduction that all states used in crafting their measures. I also spoke highly of and am pleased to see that there are alternative approaches being attempted for this year.

But at the same time on the back end of that regardless of the fact that there are new approaches, trying to deal with the uncertainty of the MRIP estimates, we're bound by a point estimate for the RHL. The ACL is a point estimate, and so we need to understand how what comes forward will function with that.

I know that doesn't directly answer, but it is something that we're poised and ready to consider. It's something we'd like to work with, but we have to understand when it comes to us that it's going to work. If the documentation can support that decision then I think you have our answer. If it's not then we're going to have to think about it. I think until that process unfolds that is as directly as I can answer; will we or will we not.

CHAIRMAN LUISI: I'm not sure anybody ever expects a direct answer without seeing all the information available. But thank you for that clarification. We're going to take a one minute caucus, because I need to talk with my delegation and we'll come back for the vote. Okay back to the Board. I'm going to read the motion into the record.

Move to approve Option 5, more coastwide consistency from Section 3.2 with the removal of the following language. Of particular note, Option 5 is calculated to achieve a 28 to 32 percent coastwide reduction; depending on the sub-option. Less than the required reduction of 41 percent that Options 1 through 4 are designed to address; motion by Mr. Gilmore, second by Mr. Gates. Is the Board ready for the question?

MR. BALLOU: Roll call, please.

CHAIRMAN LUISI: We can do a roll call. I'll turn it over to Kirby for the roll call.

MR. ROOTES-MURDY: Going north to south again; Commonwealth of Massachusetts.

MS. MESERVE: No.

MR. ROOTES-MURDY: Rhode Island.

MR. BALLOU: No.

MR. ROOTES-MURDY: Connecticut.

MR. ALEXANDER: Yes.

MR. ROOTES-MURDY: New York.

MR. GILMORE: Yes.

MR. ROOTES-MURDY: New Jersey.

MR. BAUM: No.

MR. ROOTES-MURDY: Delaware.

MR. CLARK: Yes.

MR. ROOTES-MURDY: Maryland.

MS. DEAN: Yes.

MR. ROOTES-MURDY: Potomac River Fisheries Commission.

MR. SCHICK: Yes.

MR. ROOTES-MURDY: Virginia.

MR. O'REILLY: Yes.

MR. ROOTES-MURDY: North Carolina.

MR. BATSAVAGE: Yes.

MR. ROOTES-MURDY: U.S. Fish and Wildlife Service.

MS. WHITE: Abstain.

MR. ROOTES-MURDY: National Marine Fisheries Service.

MR. RUCCIO: Abstain.

CHAIRMAN LUISI: **All right motion carries 7 to 3 with 2 abstentions**. The next thing we have to do, we're going to take up the timeframe of the addendum; whether the timeframe will be for one year or two years. I'm going to look to the Board for a motion to that. Jim.

MR. GILMORE: **I move to approve Option B for the two-year timeframe.**

CHAIRMAN LUISI: Is there a second for that motion? I'm looking for the option here in the draft. Kirby is telling me it's Option 2.

MR. ROOTES-MURDY: Yes just to clarify in reference to the timeframe option it is Option 2, for two years or for 2017 and the ability to extend through 2018 in Section 3.3.

CHAIRMAN GILMORE: That's correct, I agree.

CHAIRMAN LUISI: That does not require that the addendum is in place for 2018, it just allows the Board to make an extension so that we don't necessarily have to have a three hour debate next year in February. I'll leave it at that. Is there a second on the option for 2017 with the extension? I know I'm looking for a second. Chris Batsavage seconds. Is there discussion on the motion? Okay seeing no discussion do you need to caucus on this?

MR. O'REILLY: What are we extending? I guess that's my thought. Are we extending this particular option for two years, are we extending what's in the addendum as possibilities for two years? I want to be clear on that. Then there is probably merit to the two years, if you think that MRIP by 2018, somewhere in that process maybe later in the year is when we all get hit with that. That is going to be enough to deal with for everything,

and staff does have a lot of incredible work just to get through to where they did now. I guess my question though is still what's that entail? What will be carried over?

MR. ROOTES-MURDY: On Page 17 of the document, management for 2018, it lays out that if the Board chooses to continue one of these alternative options that's selected, it lays out that if the coastwide RHL is exceeded then region specific harvest will be evaluated with the understanding that more restrictive management measures will be needed to constrain regional harvest in 2018.

If the predicted 2018 combined regional harvest is higher than the 2018 RHL, regions will have to adjust their management measures in 2018. Now I will note that that offers a direction or information on how we go in one direction, but it doesn't necessarily give good guidance on how we go in say another direction; if it's well under the 2018 recreational harvest limit.

MS. KERNS: Just to clarify for Rob. I think it just approves this methodology that you're choosing, and that it has the ability to extend that into the next year. The numbers are the new numbers every year.

CHAIRMAN LUISI: And in the event we choose not to extend the methodologies, we could initiate a new addendum to reconsider alternatives that were discussed today or other options that we could come up with.

MS. KERNS: Correct, yes.

MR. NOWALSKY: I cannot in good conscience support any option that only provides us unidirectional information on how to adjust measures moving forward. As Rob indicated earlier that is what got us in the box in the first place. We had no mechanism in place for how to account for reductions. That is why we've sat here for three plus hours now. To now say we're going to put a reduction methodology in place but not have one to have potential to go in the other direction; I can't support that**. I move to substitute Option 1; one year only.**

CHAIRMAN LUISI: Okay let's get that on the board and then I'll look for a second. I guess that's what Amy thought of your option there.

MR. NOWALSKY: Would "Go Eagles" help, Mr. Chairman?

CHAIRMAN LUISI: "Go Falcons" is more like it; nothing against my colleagues from New England. All right while we're working on getting that back up on the screen I'll take questions. Eric. Eric will second the motion; any discussion on the motion? We won't vote on it until it comes back on the screen, but if there is any discussion on the motion just to stay with 2017. What that would mean is that we would need to consider another addendum next year for moving forward in 2018. Nichola.

MS. MESERVE: I'm in support of the substitute motion. Despite the language in the draft addendum, I'm still not really sure what extending the provisions mean. Option 5 picked a size limit and a bag limit and applied them to states, so that methodology would mean that the Board would be making those decisions without the opportunity of public comment through an addendum process.

It doesn't sit very well with me, so I would prefer to the one year. In addition we've heard that the Technical Committee wants to suggest some revised methodologies. We still have 1998 as a reference year on the books; and there is some interest in moving away from that. The addendum process is the avenue for that if desired.

MR. GILMORE: Just to echo your comments, Mr. Chairman, all this does is give us the option that if this does work that we don't have to go through this laborious process next year. If we want to just do something different, going for

the two year doesn't preclude that. I'm opposed to the motion; but again I don't think a lot of people understand this is not tying our hands in doing this next year. We can completely go for a whole new thing. But if this works or whatever, we can just cut the corners and not have to sit through another multi hour meeting.

CHAIRMAN LUISI: Yes it's not just the multi hour meeting, but again to the point if this were to work the addendum could be extended without going back to the public and doing public hearings. It's an administrative efficiency. That's how I see it. We still have the option next year to move for a new addendum to address concerns that may arise. Bob.

CONSIDER FINAL APPROVAL OF ADDENDUM XXVIII

EXECUTIVE DIRECTOR BEAL: This technological situation may take more than a minute. The motion is straightforward; do you want it one year? You know the current motion to substitute is just for the current year. Vote on that. If that passes then that is the main motion or it goes back to the two year.

CHAIRMAN LUISI: Okay so let's, based on that advice let's go ahead. Do we need a caucus? Rob.

MR. O'REILLY: So just listened to a couple comments. I think they're right, and I think Nichola's comment is very good. Is there some way that even though we extend the addendum that we also leave room to look at the new technical information and anything else that pertains to the 2018 fishery; without making it exactly like we went through today. Is there some way to do that? That's a question.

CHAIRMAN LUISI: I think Rob that if we wanted to explore something different than what Option 5's methodologies were for next year, we would have to initiate an addendum to do so. But it is completely within the Board's per view to do that. The option to extend is an efficiency for the Board.

That's the way I've seen it and thought about it in the past. We're going to go ahead and call the question. **We have a substitute motion for Addendum XXVIII for 2017 only. All those in favor of the motion for the 2017 only, please raise your hand. All those opposed like sign; any abstentions, two abstentions any null votes? Motion fails four to six to two.**

Back to the main motion for Option 2 for the 2017 and the ability to extend Addendum XXVIII through 2018. Is the Board ready for the question? All those in favor please indicate by raising your hand. **Eight in favor, all those opposed like sign, and two opposed any null votes, any abstentions; two abstentions, motion carries.** Okay we need one last motion to approve the addendum as modified today. Emerson.

MR. HASBROUCK: I move to approve the addendum as modified today. Do I need to name the addendum?

CHAIRMAN LUISI: That would be good.

MR. HASBROUCK: I move to approve Addendum XXVIII as modified today.

CHAIRMAN LUISI: Do I have a second? John Clark. Any discussion on the motion? Adam.

MR. NOWALSKY: There has been a lot of discussion here today. My primary takeaway at this point is that we remain concerned about the Service's ability to implement Option 5. I think the Service has information to take home today that the intent of the Commission would be to implement Option 5.

Given that and the fact that we're going to meet in two weeks**, I think it would behoove this Board to give the Service time to evaluate**

that and give us a final answer before we take action, and to that end I would move to postpone final action on this addendum until the joint meeting in Kitty Hawk.

CHAIRMAN LUISI: Okay I have a motion; do I have a second on the motion to postpone final action? Eric Reid. Discussion on the motion? Mike.

MR. RUCCIO: I appreciate the intent of this, and as I referenced earlier I know people are uncomfortable with the uncertainty; and there is probably a really bad MRIP joke there that I won't make. I don't know that we're going to be able to tell you definitively, because our decision is predicated on receiving the memo that conservation equivalency has been achieved.

In two weeks-time I don't expect that states are going to be able to go off and codify the measures that are outlined in Option 5, so I'm not sure the Commission would be able to bring us that letter. If I'm mistaken on that process wise, great. But that is the process as it normally unfolds. We typically get that letter in late spring, April sometimes even into May; depending on states individual process. That's our decision point in the conservation equivalency process, so I think two weeks is a very tall order.

CHAIRMAN LUISI: Any other comments on the motion to postpone? Rob.

MR. O'REILLY: I also understand what Adam has just said, but I think our role is to have some certainty about what we just passed. Regardless of how it ends up, I think that that is a part of what we're doing today. A lot of comments that the methods we've tried in the past didn't work. Year X to year X plus one doesn't work very well, never has. I think we should just go ahead and not wait.

MR. RUCCIO: One other quick thought here to is we have been working with the Technical Committee, we certainly will continue to work with the Technical Committee. We will continue to work with states through this. I don't want people to think that we are now separate groups. You're going to send us a letter and we're either going to go thumbs up or thumbs down and that's it.

We envision and plan on in the interim before we get that letter to continue to try to understand how these things are going to work, how and why the measures would be successful. I think it will be an ongoing process; rather than just a stark decision point on our behalf.

CHAIRMAN LUISI: Does the Board need time for a caucus on this? Are you ready for the question? Seeing no caucus; **so the motion to postpone final action on Addendum XXVIII until the joint meeting in Kitty Hawk; motion by Mr. Nowalsky and seconded by Mr. Reid. All those in favor of the motion please indicate by raising your hand.**

That is two in favor, all those opposed raise your hand please; that's ten opposed, any null votes, seeing no abstentions, motion fails for lack of majority so we're back to the main motion. We have move to approve Addendum XXVIII as modified today; motion by Mr. Hasbrouck, seconded by Mr. Clark. This is a final action of the Board so we're going to do a roll call vote on this action. Kirby.

MR. ROOTES-MURDY: Going from north to south, Commonwealth of Massachusetts.

MS. MESERVE: Yes.

MR. ROOTES-MURDY: Rhode Island.

MR. REID: We're not sour grapes, we all have planes to catch; we vote no. Just so you know we're not walking out.

MR. ROOTES-MURDY: Connecticut.

MR. ALEXANDER: Yes.

MR. ROOTES-MURDY: New York.

MR. GILMORE: Yes.

MR. ROOTES-MURDY: New Jersey.

MR. BAUM: No.

MR. ROOTES-MURDY: Delaware.

MR. CLARK: Yes.

MR. ROOTES-MURDY: Maryland.

MS. DEAN: Yes.

MR. ROOTES-MURDY: Potomac River Fisheries Commission.

MR. SCHICK: Yes.

MR. ROOTES-MURDY: Commonwealth of Virginia.

MR. O'REILLY: Yes.

MR. ROOTES-MURDY: North Carolina.

MR. BATSAVAGE: Yes.

MR. ROOTES-MURDY: U.S. Fish and Wildlife Service.

MS. WHITE: Yes.

MR. ROOTES-MURDY: National Marine Fisheries Service.

MR. RUCCIO: Yes.

CHAIRMAN LUISI: **Motion carries 10 to 2 with no null votes and no abstentions.** Okay so that concludes Item 4 on our agenda. Now I know that there are people who have planes to catch. There is an interest from folks from what I've heard from Bob about recessing this Board until the conclusion of the Striped Bass Board, which would mean I would need a motion to recess until the conclusion of the Striped Bass Board if that's the wish of this Board. We would come back after the Striped Bass Board and take up the final items on the agenda dealing with scup and black sea bass. Is that in the interest? We're well beyond the time that we've dedicated for this agenda item, but it was a good discussion and it was a needed discussion. We have a number of members of the audience who are here I know for the Striped Bass Board, as well as folks from New England who want to participate in that discussion. I'll look to the Board for that direction. Bob.

EXECUTIVE DIRECTOR BEAL: Just before the Board comments. I think as you say we're running a bit late, and that is not a criticism at all. Item Number 5, Black Sea Bass Commercial Landings; that was really just a precursor to the Kitty Hawk meeting, I think we can probably skip that one altogether.

When you look at the striped bass agenda there are two items on there, which are the Terms of Reference for the 2018 Stock Assessment and the Population of the Stock Assessment Subcommittee, I think we can do both of those via mail or you know electronic; circulate those and see if there is Board approval.

I think we can accelerate by removing those agenda items from the Striped Bass Board and from this Board. If the group agrees to recess now, we'll just handle essentially the Technical Committee report and any discussion in the Striped Bass Board and then come back here for the scup addendum, as well as the scup recreational regulations.

The scup recreational regulations, good news is I don't think the states have to take any reductions there. The MRIP numbers worked

out. I think we can do all those things pretty quickly. But there are some folks on the Striped Bass Board that need to catch flights and wanted to participate in that discussion of the Technical Committee report.

CHAIRMAN LUISI: Okay so again, we have a few items over the next short bit of time that we want to cover. Is there an interest of this Board to just get through the last two action items, Considering the Scup Draft Addendum for Public Comment and Scup Recreational Fishery Specifications? I'm looking at Kirby to give us an idea.

MR. ROOTES-MURDY: We can go through that in five minutes or less.

CHAIRMAN LUISI: Okay let's, unless there is an interest to recess we'll go ahead and try to get through these two very quickly. Then we'll convene the Striped Bass Board. But if the discussion begins we're going to recess, because we certainly want all of the members of the Striped Bass Board to participate on the Technical Committee Report.

CONSIDER SCUP DRAFT ADDENDUM XXIX FOR PUBLIC COMMENT

MR. ROOTES-MURDY: We're talking about Draft Addendum XXIX. This addendum was initiated by the Board in conjunction with the Council at their joint meeting in December last year, and I'm going to skip over much of my presentation and just focus on the proposed management programs.

What we're talking about today is the start and end dates for the summer period of the trimester quotas. The first alternative that is proposed in the management program of this draft addendum document is for a no action or status quo; which would be leaving the current trimester start and end dates the same. The second alternative is to move October to the Winter 2 period, so basically it would change the number of days you have open in Winter 2 starting it on October 1st, rather than on November 1st. The third alternative and it has subcomponents to it that I'll walk through quickly, is to move October to the Winter 2 period, and to move the first two weeks of May, to the summer period.

That's pretty straightforward in that you move two weeks into May it increases the Winter 1 period. It also increases the Winter 2. Now the three sub-alternatives are that Alternative 3A is to modify the dates of the quota periods as described under Alternative 3 and leave the Winter 1 and summer quota counting procedures unchanged.

The Alternative 3B is to modify the dates of the quota periods as described under Alternative 3 and modify the end date of Winter 1 and summer quota counting procedures. Alternative 3C is to modify the dates of the quota period as described under Alternative 3 and modify the start and end dates of Winter 1 and the summer quota counting procedure.

With that the Board would need to consider approving this draft addendum for public comment, and then the Board and Council would take up final action on this draft document at the ASMFC Spring meeting in May. I know I went through that very quickly; but I'll take any questions if needed.

CHAIRMAN LUISI: Do we have any questions then we'll take comments as well from Kirby. Steve Heins.

MR. STEVE HEINS: Kirby, can you assure me as to the quota periods, the quota for the periods. The quotas will not change, right?

MR. ROOTES-MURDY: That's correct. The quotas under these alternatives do not change; it is the start and end dates for Winter 1, summer and Winter 2.

CHAIRMAN LUISI: Steve, follow up.

MR. HEINS: But the change to the procedures for accounting that doesn't affect the quotas, right?

MR. ROOTES-MURDY: I don't believe so. Basically, for example for Alternative 3C, state only permitted vessels in state waters during May 1 through May 15 could count towards the Summer period quota for those states; although these dates would be modified, the length of the period during which these special quota counting procedures could be in effect would remain unchanged for two weeks. The regulations would also be modified such that the states would have to request the special provisions by May 1. There is some changing in how we normally do our procedures for accounting of that quota; if that makes sense.

MR. O'REILLY: I have a different kind of question. In Virginia we have such a small summer quota. A day can make a difference, so which of the options, since you put them up there pretty quickly; and I have seen variations of this before. But which of those options reduces the summer period the most?

MR. ROOTES-MURDY: In terms of options that reduces the summer period the most in terms of the number of days that this summer period is open; that would be Option 3, it reduces it down to 138 days. Currently it is at 184 days, Option 2 reduces it down to 153 days.

CHAIRMAN LUISI: Okay I'm looking to the Board for direction as to whether or not we want to move on this to take it out to the public. Steve.

MR. HEINS: I would move to take this out to the public. I'm assuming there is a motion made. Move to approve Addendum XXIX for public comment.

CHAIRMAN LUISI: Motion by Steve, we need a second. Adam.

MR. NOWALSKY: Mr. Chairman I'll be happy to second that. I believe the correct reflection is XXIX and that also needs to be changed on the cover page of the document, I believe.

CHAIRMAN LUISI: You're amazing, Adam. Thank you. Nichola.

MS. MESERVE: I'm fine with the motion; I would just ask that staff add a life history section to the draft addendum. At the joint meeting I expressed some concerns about the May change and implications on spawning, so I think some information on life history would benefit the public comment.

CHAIRMAN LUISI: We can make sure that happens. Okay any other discussion on the motion? Do we need a caucus on this one? **Okay so the motion is to approve Addendum XXIX for public comment; motion by Mr. Heins, second by Mr. Nowalsky. All those in favor of the motion please indicate by raising your hand. It is 11 in favor, all those opposed same sign; seeing none any null votes or abstentions, zero, zero motion carries.**

ADJOURNMENT

CHAIRMAN LUISI: Okay we're going to take up one last issue. Okay so I just got told that we don't need to do anything on the last agenda item, so with that do I have a motion to adjourn the Summer Flounder, Scup and Black Sea Bass Board? Meeting is adjourned. Next will be the Striped Bass Board and thank you all very much for your patience as we worked through what was a very challenging Board discussion today. Meeting is adjourned.

(Whereupon the meeting adjourned at 11:30 o'clock a.m. on February 2, 2017)

Atlantic States Marine Fisheries Commission

DRAFT ADDENDUM XXIX TO THE SUMMER FLOUNDER, SCUP, BLACK SEA BASS FISHERY MANAGEMENT PLAN FOR PUBLIC COMMENT

Scup Commercial Quota Management

March 2017

Sustainably Managing Atlantic Coastal Fisheries

Draft Addendum for Public Comment

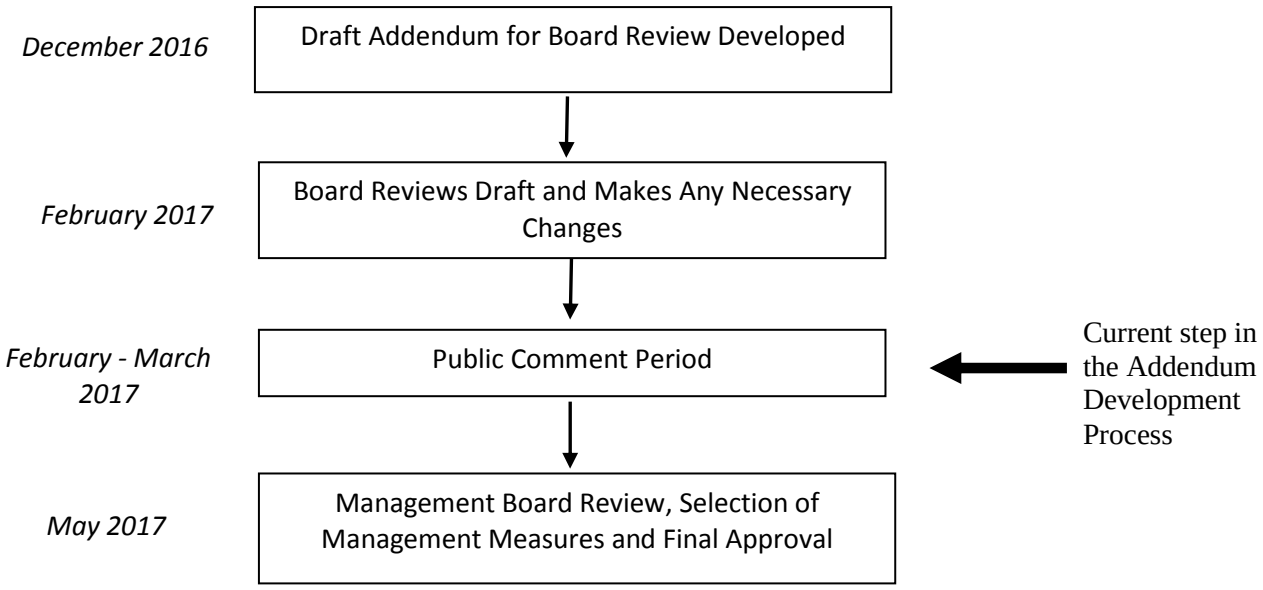
Public Comment Process and Proposed Timeline

In December 2016, the Summer Flounder, Scup, and Black Sea Bass Management Board approved a motion to initiate the development of an addendum to the Interstate Fishery Management Plan (FMP) for Summer Flounder, Scup, and Black Sea Bass. The addendum will address the management of the scup commercial quota periods. This Draft Addendum presents background on the Atlantic States Marine Fisheries Commission's (Commission) management of scup; the addendum process and timeline; and a statement of the problem. This document also provides options of management for public consideration and comment.

The public is encouraged to submit comments regarding this document at any time during the public comment period. The final date comments will be accepted is **March 31, 2017 at 5:00 p.m**. Comments may be submitted at state public hearings or by mail, email, or fax. If you have any questions or would like to submit comment, please use the contact information below.

Mail: Kirby Rootes-Murdy, Senior FMP Coordinator
Atlantic States Marine Fisheries Commission
1050 North Highland Street, Suite 200A-N
Arlington, VA 22201

Email: comments@asmfc.org
(Subject: **Draft Addendum XXIX**)
Fax: (703) 842-0741



Draft Addendum for Public Comment

1.0 Introduction

This Draft Addendum is proposed under the adaptive management/framework procedures of Amendment 12 that are a part of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). Summer flounder, scup, and black sea bass fisheries are managed cooperatively by the states through the Atlantic States Marine Fisheries Commission (Commission) in state waters (0-3 miles), and through the Mid-Atlantic Fishery Management Council (Council) and the NOAA Fisheries in federal waters (3-200 miles).

The management unit for scup in US waters is the western Atlantic Ocean from Cape Hatteras North Carolina northward to the US-Canadian border. The Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) approved the following motion on December 13, 2016:

Move to initiate a scup addendum for the Commission with alternative 1 (no action), alternative 2 (move October to winter II), and alternative 3 (move first half of May to winter I and October to winter II).

This Draft Addendum proposes alternate start and end dates for the scup commercial quota periods.

2.0 Overview

2.1 Statement of the Problem

Since 2011, commercial scup landings have been 20-47% below the commercial quota. In recent years, the Commission and Council Advisory Panel members requested modifications to the dates of the quota periods with all other regulations related to the quota periods, including the allocations and possession limits, remaining unchanged. The requested changes are intended to allow higher possession limits for a longer period of time each year, thus increasing the likelihood that the commercial fishery will fully harvest the quota in the future.

2.2 Background

The Scup FMP was incorporated into the Summer Flounder FMP through Amendment 8 and established several coastwide management measures for the scup fishery. At the time, the scup stock was overexploited. Amendment 8 included several measures to rebuild the stock, including a coastwide commercial quota beginning on January 1, 1997. During development of Amendment 8, the Commission and Council considered, but did not fully develop, a system of quota allocation and possession limits. They agreed to submit Amendment 8 to NOAA Fisheries before fully developing these measures so the other measures in the Amendment could be implemented as quickly as possible and the rebuilding program could begin. However, without trip limits and seasonal allocations, the annual quota could be fully harvested early in the year, which could have economic implications for the entire fishery and created the potential for issues regarding equitable access to the fishery. Traditionally, larger vessels harvested scup offshore during the winter months and smaller vessels harvested scup inshore during the summer. If larger vessels harvested the full annual quota early in the year, smaller vessels

would not be able to harvest scup in the summer. To address this issue, the Commission and Council developed three quota periods, each allocated a percentage of the annual commercial quota and each with different possession limits. These measures were first implemented in 1997 through a regulatory amendment to the FMP (MAFMC 1996 & ASMFC 1996).

The dates of the quota periods and the allocation percentages have not changed since they were first implemented. These measures include a Winter I period, lasting from January 1 through April 30 and allocated 45.11% of the annual quota; a Summer period, lasting from May 1 through October 31 and allocated 38.95% of the annual quota; and a Winter II quota period, lasting from November 1 through December 31 and allocated 15.94% of the annual commercial quota (Table 1).

The Summer quota period allocation is further divided into state shares. The state shares have been modified since they were first implemented. The current state shares are shown in Table 2. State shares were removed from the Council's FMP but are managed by the Commission through Addendum V (ASMFC 2002).

Commercial landings data from 1983 through 1992 were used to define the dates and allocations for the quota periods, including the state allocations for the Summer period. These years were chosen because they were thought to best represent historical participation in the fishery and included years when scup were abundant (though they have become far more abundant since then) and available to both northern and southern states (MAFMC 1996). There was some concern that these data underestimated harvests from state waters with some gear types, especially in Massachusetts. To address this concern, the state summer shares were modified in 2002 through Addendum V to the Commission's FMP (ASMFC 2002).

The seasonal possession limits have been modified several times since implementation. Current management measures include a 50,000 pound possession limit during Winter I. If 80% of the Winter I quota is harvested, the possession limit drops to 1,000 pounds for the remainder of the Winter I period. The initial Winter II possession limit is 12,000 pounds. If the Winter I quota is not fully harvested, unused quota may rollover to the Winter II period. If this occurs, the Winter II possession limit may increase up to a maximum of 18,000 pounds. There are no Federal waters possession limits during the Summer period; however, various state-specific possession limits are enforced in state waters. These possession limits are much lower than those in Winter I and Winter II (Table 3).

The Federal commercial scup fishery is closed coastwide when the allocation for a given quota period is reached. Any overages during a given quota period are subtracted from that period's allocation for the following year. If the Summer period quota is exceeded, overages from a given state during the Summer period are subtracted by the Commission from the state's Summer period share in a future year. If an individual state exceeds its Summer quota, but the overall Summer quota is not exceeded, deductions are not applied.

Although the dates of the quota periods have not been modified since their initial implementation, Addendum X to the FMP, implemented in 2003, allows landings during April 15-30 by state-only permit holders to be counted towards that state's Summer period allocation in years when the Winter I fishery closes before April 15. Under this provision, states must request the date of Summer period change for state permit holders and notify NOAA Fisheries that landings by state-permit holders apply to the Summer period quota (ASMFC 2003).

2.3 Description of the Fishery

Scup are highly sought after by commercial and recreational fishermen throughout Southern New England and the Mid-Atlantic. Scup support commercial fisheries from Massachusetts to North Carolina. Commercial landings peaked in 1960 at 48.9 million pounds, and then ranged between 11.02 and 22.04 million pounds until the late 1980s. From the 1987-1996, commercial landings averaged 10.8 million pounds, and then declined to an average of 8.8 million pounds from 1997-2014. In 2015 commercial landings were 15.86 million pounds, about 75% of the commercial quota. Since 1979, commercial landings have largely come from Rhode Island (38%), New Jersey (26%), and New York (16%).

Analysis of the potential impacts of the changes to the quota period dates requested by advisors is presented in this section. The figures and tables at the end of this document show scup landings by month (Figure 1, Table 4), scup prices by month (Figure 2, Table 5), and number and size of vessels landing scup by month (Figure 3, Table 6, Figure 4), as well as the importance of each month to scup landings in each state (Table 7).

Although October is within the Summer quota period, it has had similar average values to the Winter II quota period in terms of scup landings (Figure 1, Table 4) and number of vessels landing scup (Figure 3, Table 6). The size distribution of vessels which landed scup in October was in between that of September (Summer quota period) and November (Winter II quota period; Figure 4) during 2011-2015. The month of May, which is currently in the Summer quota period, had values for scup landings which were in between the months of April (Winter I quota period) and June (Summer quota period; Figure 1, Table 4). The number and size of vessels landing scup in May was similar to the number and size of vessels landing scup in June (Figures 3 and 4, Table 4). In general, October appears to be more similar to the Winter II period than the Summer period in terms of landings and number of vessels. May appears to be more similar to the Summer period than the Winter I period in terms of the number and size of vessels landing scup per month, but in between Winter I and Summer in terms of scup landings.

If each month contributed equally to scup landings, 8% of annual landings would occur in each month. The month of October contributed to more than 8% of annual scup landings in Rhode Island. The month of May contributed to more than 8% of annual scup landings in the states of Massachusetts, Rhode Island, and New York (Table 7).

At their July 2016 meeting, the Monitoring Committee discussed ideas for analyzing the impacts of modifying the scup quota period dates. Monitoring Committee members noted if October were moved to the Winter II period, this would allow a higher commercial possession limit (on

the order of 12,000 pounds) and if scup are close inshore during that time of year, this could potentially impact recreational fisheries which mostly operate in state waters. Data from the Marine Recreational Information Program (MRIP) includes recreational catches and landings by two-month periods known as waves. From a coast-wide perspective, waves 3 (May-June), 4 (July-August), and 5 (September-October) each contributed about one third of annual scup landings from 2013 through 2015. Wave 3 dominated the scup landings (i.e. greater than 50% of the annual landings) in Massachusetts. Wave 5 dominated the scup landings (i.e. greater than 50% of annual landings) in New Jersey and Virginia and was also important (i.e. greater than 40% of annual landings) for Connecticut and New York (Table 8).

The Northeast Fisheries Science Center (NEFSC) fall bottom trawl survey and the Northeast Area Assessment and Monitoring Program (NEAMAP trawl survey) suggest commercial-sized scup are available in both state and Federal waters during October (Figures 5-9). However, the Rhode Island Department of Environmental Management (RI DEM) trawl survey, the University of Rhode Island Graduate School of Oceanography (URI GSO) Narragansett Bay trawl survey, and the state of New Jersey Ocean Trawl Survey suggest scup are present in state and Federal waters during October, but most of those scup are below the commercial size (Figures 10-14).The NEAMAP, RI DEM, URI GSO Narragansett Bay, and Massachusetts Department of Marine Fisheries (MA DMF) trawl surveys suggest commercial-sized scup are present in state and Federal waters during May 1-15 (Figures 10-14).

2.4 Life History

Scup are a schooling, demersal (i.e., bottom-dwelling) species with a geographic range as far north as the Bay of Fundy in southern Nova Scotia and as far south as Florida. They are found in a variety of habitats in the Mid-Atlantic. Essential fish habitat (EFH) for scup includes demersal waters, areas with sandy or muddy bottoms, mussel beds, and sea grass beds from the Gulf of Maine through Cape Hatteras, North Carolina. Water temperature is a main factor influencing the range of scup, as they prefer temperatures greater than 45°F and are most frequently in waters between 55–77°F.

Scup undertake extensive seasonal migrations between coastal and offshore waters. They are mostly found in estuaries and coastal waters from southern New England to the Chesapeake Bay during the spring and summer, within depths up to 120 feet (NEFSC 2015b). In the fall and winter, they move offshore and to the south, to outer continental shelf waters south of New Jersey at depths of 250–610 feet. Juveniles follow adults to wintering areas, although some remain in larger and deeper estuaries during warm winters. Scup migrate to summering grounds in spring when water temperatures start to rise about 45°F.

Scup spawn once annually from May through August and peaking in June (ASMFC 2015), mostly off southern New England from Massachusetts Bay south to the New York Bight. Spawning begins during the inshore migration when water temperatures are above 50°F, with the largest fish arriving to the spawning grounds first, followed by progressively smaller fish. Scup usually spawn over weedy or sandy areas. In some locations, such as eastern Long Island bays and Raritan Bay, spawning mostly occurs in May and June (Steimle et al. 1999).

Scup eggs and larvae are pelagic and are found in coastal waters in and near southern New England during spring and summer. As larvae mature, they settle to the seafloor and develop into juveniles. About 50% of scup (both male and female) are sexually mature at two years of age and 6–7 inches total length. Nearly all scup of age 3 and older are mature. They reach a maximum age of at least 14 years; however, very few scup older than age 7 are caught in the Mid-Atlantic (DPSWG 2009, NEFSC 2015b).

Adult scup are benthic feeders. They consume a variety of prey, including small crustaceans, polychaetes, mollusks, small squid, vegetable detritus, insect larvae, hydroids, sand dollars, and small fish. Scup are prey for numerous predators, including multiple shark species, skates, silver hake, bluefish, summer flounder, black sea bass, weakfish, lizardfish, king mackerel, and monkfish (Steimle et al. 1999).

2.5 Status of the Stock

The most recent peer-reviewed benchmark assessment for scup (SAW/SARC 60, NEFSC 2015) was completed in May 2015. The assessment utilizes an age-structured assessment model called ASAP. Results of the assessment indicate the scup stock was not overfished or experiencing overfishing was occurring in 2014 relative to the updated biological reference points established in the 2015 SAW 60 assessment. The fishing mortality rate was estimated to be 0.127 in 2014, below the threshold fishing mortality reference point F_{MSY} = 0.22. Spawning stock biomass (SSB) was estimated to be 403.6 million pounds (182,915 mt) in 2014, about two times the biomass target SSB_{MSY} = 192.47 million pounds (87,302 mt). The 2014 year class is estimated to be above average at 112 million fish at age 0.

In 2016, a data update was completed with information on scup fishery catch, landings, and discards, as well as NEFSC and state survey catches through 2015 indicates that scup biomass continues to be high, relative exploitation ratios remain low, and the 2015 year class appears to be large (NEFSC 2016a). Scup were under a formal rebuilding plan from 2005 through 2009. NMFS declared the scup stock rebuilt in 2009 based on the findings of the Data Poor Stocks Working Group (DPSWG 2009).

3.0 Proposed Management Program

The following alternatives were developed based recommendations from the Advisory Panel and on analysis referenced in section 2.3 ‘Description of the fishery’. If selected, the management program would be implemented as soon as possible, possibly adjusting the 2017 summer quota period end date and winter II quota period start date.

Alternative 1: No action/*status quo: the start and end dates of the quota periods remain the same.*

- Winter I: January 1 – April 30 (120 days)
- Summer: May 1 – October 31 (184 days)
- Winter II: November 1 – December 31 (61 days)

Alternative 2: Move October to the Winter II period. Under this alternative the Summer period would be shortened by 31 days and the Winter II period would be extended by 31 days.

- Winter I: January 1 – April 30 (120 days)
- Summer: May 1 – September 30 (153 days)
- Winter II: October 1 – December 31 (92 days)

Alternative 3: Move October to the Winter II period and move the first two weeks of May to the Summer period. Under this alternative the Winter I period would be extended by 15 days, the Summer period would be shortened by 46 days and the Winter II period would be extended by 31 days.

- Winter I: January 1 – May 15 (135 days)
- Summer: May 16 – September 30 (138 days)
- Winter II: October 1 – December 31 (92 days)

Alternative 3.A: Modify the dates of the quota periods as described under alternative 3 and leave the Winter I and Summer quota counting procedures unchanged

Addendum X (2003) states on pg.4: "Under this addendum, this alternative requires a slight modification to the current Federal regulations. It recognizes that the states could allow for landings of scup by state permit holders that would apply to the Summer period quota beginning on April 15th. Specifically, in the event of a closure [Winter I period] prior to April 15th, state permit holders could land and sell scup caught exclusively in state waters to state and Federally permitted dealers after April 15th and prior to the Federal opening of the Summer period on May 1. Landings by state permitted fishermen after April 15th and prior to May 1 will apply to the Summer period quota allocated to the state where the scup were landed. States have to request that the date of the Summer period change for state permit holders and are required to notify NMFS that these landings will apply to the Summer period quota."

Please note: federally-permitted vessels cannot land scup when Winter quota periods are closed or prior to the official start of the Summer period quota. Under the following sub-alternatives, federal permitted vessels may not be able to land scup when state permitted fishermen can.

Under alternative 3.A, the Summer quota period would start on May 16 (rather than on May 1, as under the no action alternative) and the regulations from Addendum X would remain unchanged. If the Winter I period closes prior to April 15, state permit holders would be able to

land scup in state waters from April 15-30 and those landings would count towards the state's Summer quota. The commercial fishery would then close from May 1-May 15 and would resume again on May 16 (the new start of the Summer Quota period)

Alternative 3.B: Modify the dates of the quota periods as described under alternative 3 and modify the end date of the Winter I and Summer quota counting procedures

Under alternative 3.B, when the Winter I period closes prior to April 15, state-only permitted fishermen would be able to land scup in state waters from April 15- May 15. State permit holders could land and sell scup caught exclusively in state waters to state and Federally permitted dealers after April 15th. Landings by state permitted fishermen after April 15th will apply to the Summer period quota allocated to the state where the scup were landed. States will notify NOAA Fisheries of the date of the Summer period change for state permit holders and their landings will apply to the Summer period quota.

Effectively, under sub-alternative 3.B, when the Winter I period closes prior to April 15, the Summer period quota could start on April 15 for state-permit holders.

Alternative 3.C: Modify the dates of the quota periods as described under alternative 3 and modify the start and end dates of the Winter I and Summer quota counting procedures

Under alternative 3.C, when the Winter I period closes prior to April 30, state only permitted fishermen would be able to land scup in state waters from May 1 –May 15. **Note**: if the winter period closes prior to April 30th, the commercial fishery will remain closed until the end of April (April 30). State permit holders could land and sell scup caught exclusively in state waters to state and Federally permitted dealers starting May 1st and prior to the Federal opening of the Summer period on May 16. Landings by state permitted fishermen starting May 1st will apply to the Summer period quota allocated to the state where the scup were landed. States will notify NOAA Fisheries of the date of the Summer period change for state permit holders and their landings will apply to the Summer period quota.

Effectively, under sub-alternative 3.C, when the Winter I period closes prior to April 30th, the Summer Quota period begins on May 1 for state-permit holders.

4.0 Compliance

Following the May 2017 Joint Board/Council Meeting, states will go through their regulatory process to promulgate changes to management in state waters that the Board approves; in turn, the Council will recommend to NOAA that the selected alternative be implemented through the federal rule making process. Once implemented, if quota period start and end dates are adjusted through the selected alternative, both federal and state permit holders will be notified.

References

ASMFC (Atlantic States Marine Fisheries Commission). 1996. Scup Fishery Management Plan and Addendum I for Scup. Available at: http://www.asmfc.org/species/scup

ASMFC (Atlantic States Marine Fisheries Commission). 2002. Addendum V to the Scup Fishery Management Plan: Summer Period Commercial Scup Allocation. Available at: http://www.asmfc.org/species/scup

ASMFC (Atlantic States Marine Fisheries Commission). 2003. Addendum X to the Scup Fishery Management Plan: Rollover Quota Strategy of Scup from Winter I to Winter II and Defining Summer Period Start Date. Available at: http://www.asmfc.org/species/scup

ASMFC (Atlantic States Marine Fisheries Commission). 2015. Scup: Life History and Habitat Needs. Available at: http://www.asmfc.org/uploads/file//568ee157Scup.pdf

DPSWG (Northeast Data Poor Stocks Working Group). 2009. The northeast data poor stocks working group report, part A: skate species complex, deep sea red crab, Atlantic wolffish, scup, and black sea bass. Northeast Fish Science Center Reference Document 09-02. Available at: http://www.nefsc.noaa.gov/publications/crd/crd0902/

Hamer, P.E. 1979. Studies of the scup, Stenotomus chrysops, in the Middle Atlantic Bight. New Jersey Division of Fish, Game, and Shellfish Miscellaneous Report No. 18M.

MAFMC (Mid-Atlantic Fishery Management Council). 1996. Regulatory Amendment to the Fishery Management Plan for the Summer Flounder and Scup Fishery. Available at: http://www.mafmc.org/fisheries/fmp/sf-s-bsb

Morse, W. W. 1978. Biological and fisheries data on scup, Stenotomus chrysops (Linnaeus). Northeast Fisheries Science Center Sandy Hook Laboratory Technical Series Report No. 12. Available at: http://nefsc.noaa.gov/publications/series/shlr/

NEFSC (Northeast Fisheries Science Center). 2015b. 60th Northeast Regional Stock Assessment Workshop (60th SAW) Assessment Report. U.S. Department of Commerce, Northeast Fisheries Science Center Reference Document 15-08. Available at: http://www.nefsc.noaa.gov/saw/

NEFSC (Northeast Fisheries Science Center). 2016a. Scup Data Update for 2016. Available at: http://www.mafmc.org/council-events/2016/ssc-3.

"Scup: General Fisheries Information". Greater Atlantic Region, Sustainable Fisheries, NOAA Fisheries. https://www.greateratlantic.fisheries.noaa.gov/sustainable/species/scup/index.html. Accessed February 28, 2017.

Steimle, F.W. and C. Zetlin. 2000. Reef habitats in the middle Atlantic bight: abundance, distribution, associated biological communities, and fishery resource use. *Marine Fisheries Review*. 62: 24-42.

Tables and Figures

Table 1. Commercial scup quota period dates, percentage of annual quota allocated, and Federal waters possession limits.

Quota Period	Dates	% of annual quota	Possession limit
Winter I	Jan 1–Apr 30	45.11%	50,000 pounds
Summer	May 1–Oct 31	38.95%	State-specific (Table 3)
Winter II	Nov 1–Dec 31	15.94%	12,000-18,000 pounds depending on amount of unused quota from Winter I

Table 2. State allocations of commercial scup quota for the Summer quota period.

State	Share of summer quota
Maine	0.1210%
New Hampshire	0.0000%
Massachusetts	21.5853%
Rhode Island	56.1894%
Connecticut	3.1537%
New York	15.8232%
New Jersey	2.9164%
Delaware	0.0000%
Maryland	0.0119%
Virginia	0.1650%
North Carolina	0.0249%

Table 3. Commercial scup possession limits for trawl vessels in state waters during the Summer quota period (May 1 – October 31) in 2016.

State	Dates	Possession limit
Maine	May 1 – Oct 31	None
New Hampshire	May 1 – Oct 31	None (allocated no quota)
Massachusetts	May 1 – Oct 31	800 lb
Rhode Island	May 1 – Oct 31	10,000 lb per vessel per week
Connecticut[a]	May 1 – July 2	1,500 lb
	July 3 – November 1[b]	750 lb
New York	May 1 – Oct 31	800 lb
New Jersey	May 1 – Oct 31	5,000 lb
Delaware	May 1 – Oct 31	None (allocated no quota)
Maryland	May 1 – Oct 31	None
Virginia	May 1 – Oct 31	None
North Carolina	May 1 – Oct 31	None

[a]Adjusted periodically to maintain consistent weekly landings rate, prevent in-season closure, and take 100% of summer period quota allocated to Connecticut.

[b]As of August 26, 2016. Possession limit may be further adjusted prior to end of Summer quota period.

Landings by Month

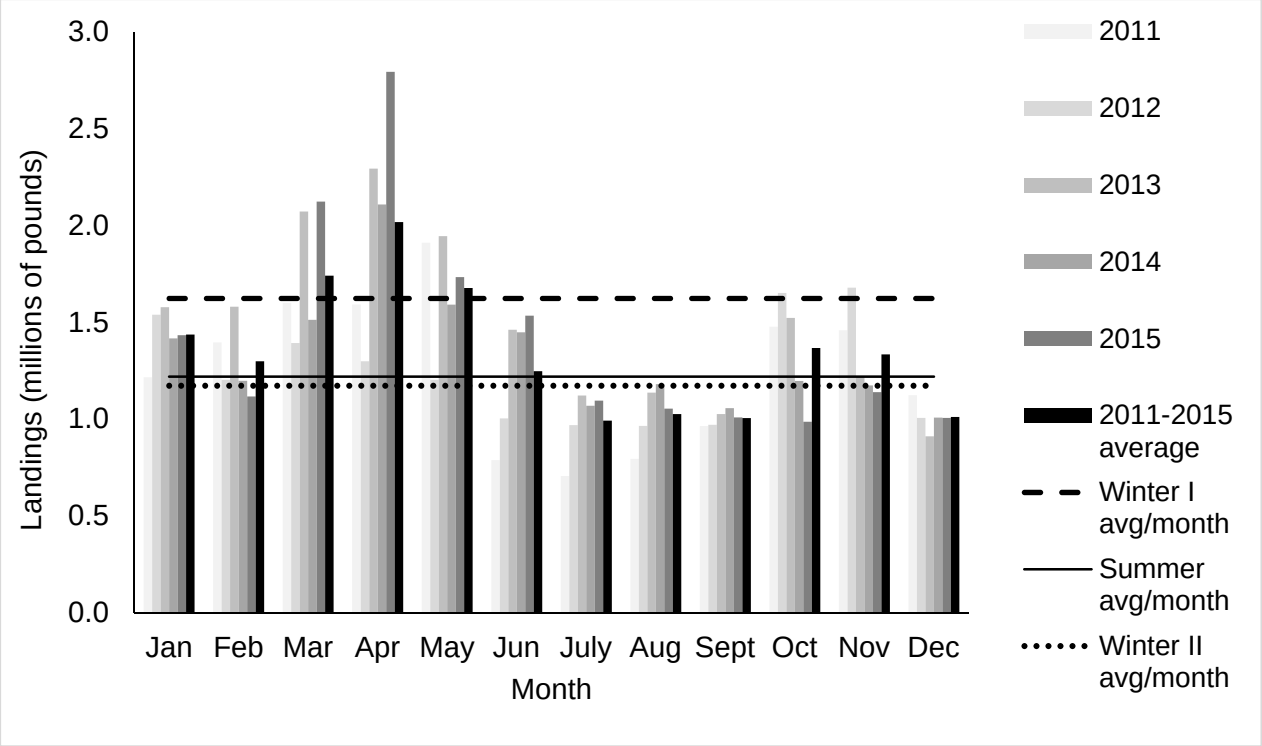


Figure 1. Commercial scup landings per month, 2011-2015 shown with average landings per month during the Winter I (January – April), Summer (May-October), and Winter II (November and December) quota periods.

Table 4. Commercial scup landings per month, 2011-2015 shown with average landings per month during the Winter I (January – April), Summer (May-October), and Winter II (November and December) quota periods.

Year	**Landings** (millions of pounds)											
	Jan	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**July**	**Aug**	**Sept**	**Oct**	**Nov**	**Dec**
2011	1.22	1.40	1.60	1.59	1.91	0.79	0.71	0.79	0.96	1.48	1.46	1.12
2012	1.54	1.20	1.39	1.30	1.20	1.00	0.97	0.96	0.97	1.65	1.68	1.01
2013	1.58	1.58	2.07	2.29	1.95	1.46	1.12	1.14	1.03	1.52	1.22	0.91
2014	1.42	1.20	1.51	2.11	1.59	1.45	1.07	1.18	1.06	1.20	1.17	1.01
2015	1.43	1.12	2.12	2.80	1.73	1.53	1.10	1.05	1.01	0.99	1.14	1.01
Average	1.44	1.30	1.74	2.02	1.68	1.25	0.99	1.03	1.01	1.37	1.34	1.01
Winter I avg/month	1.62											
Summer avg/month	1.22											
Winter II avg/month	1.17											

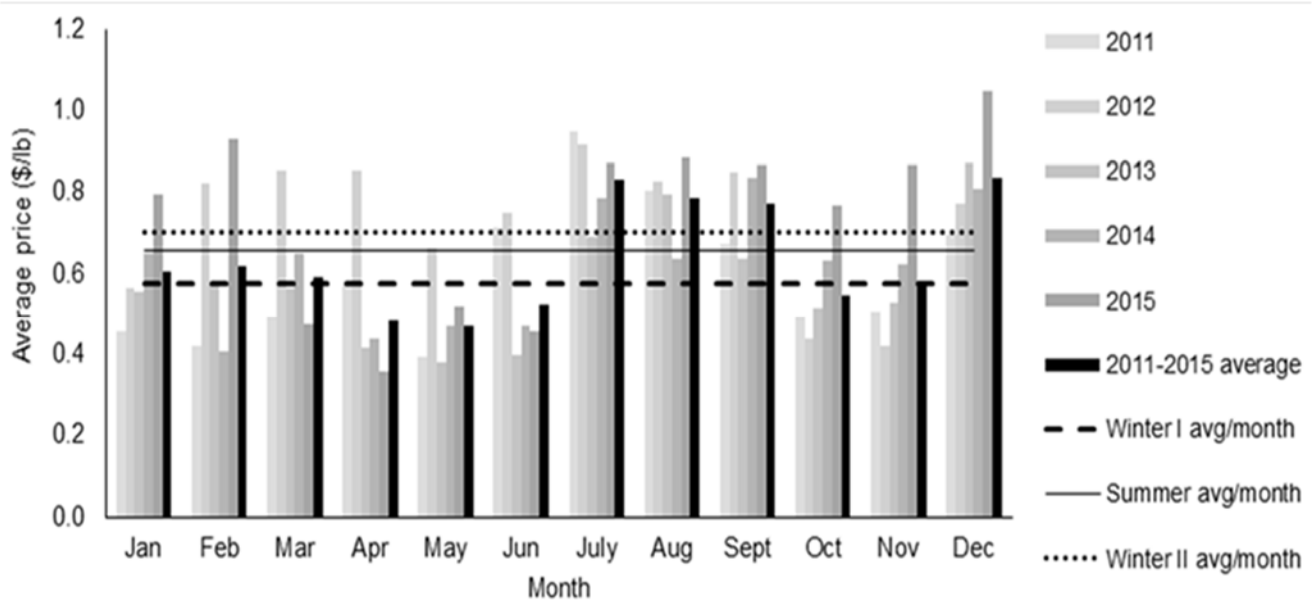


Figure 2: Average scup price per month, 2011-2015 shown with average price per month during the Winter I (January – April), Summer (May-October), and Winter II (November and December) quota periods.

Table 5: Average scup price (in dollars) per month, 2011-2015 shown with average price per month during the Winter I (January – April), Summer (May-October), and Winter II (November and December) quota periods. Values are not adjusted to account for inflation.

Year	**Average Price** (Dollars)											
	Jan	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**July**	**Aug**	**Sept**	**Oct**	**Nov**	**Dec**
2011	0.45	0.42	0.49	0.57	0.40	0.72	0.95	0.81	0.68	0.49	0.51	0.69
2012	0.56	0.82	0.85	0.85	0.67	0.75	0.92	0.83	0.85	0.44	0.42	0.77
2013	0.55	0.58	0.57	0.42	0.38	0.40	0.69	0.79	0.64	0.51	0.53	0.87
2014	0.65	0.41	0.65	0.44	0.47	0.47	0.79	0.64	0.84	0.63	0.62	0.81
2015	0.79	0.93	0.48	0.36	0.52	0.46	0.87	0.89	0.87	0.77	0.87	1.05
Average	0.61	0.62	0.59	0.649	0.47	0.53	0.983	0.79	0.77	0.55	0.57	0.83
Winter I avg/month	0.58											
Summer avg/month	0.66											
Winter II avg/month	0.70											

Number of Vessels by Month

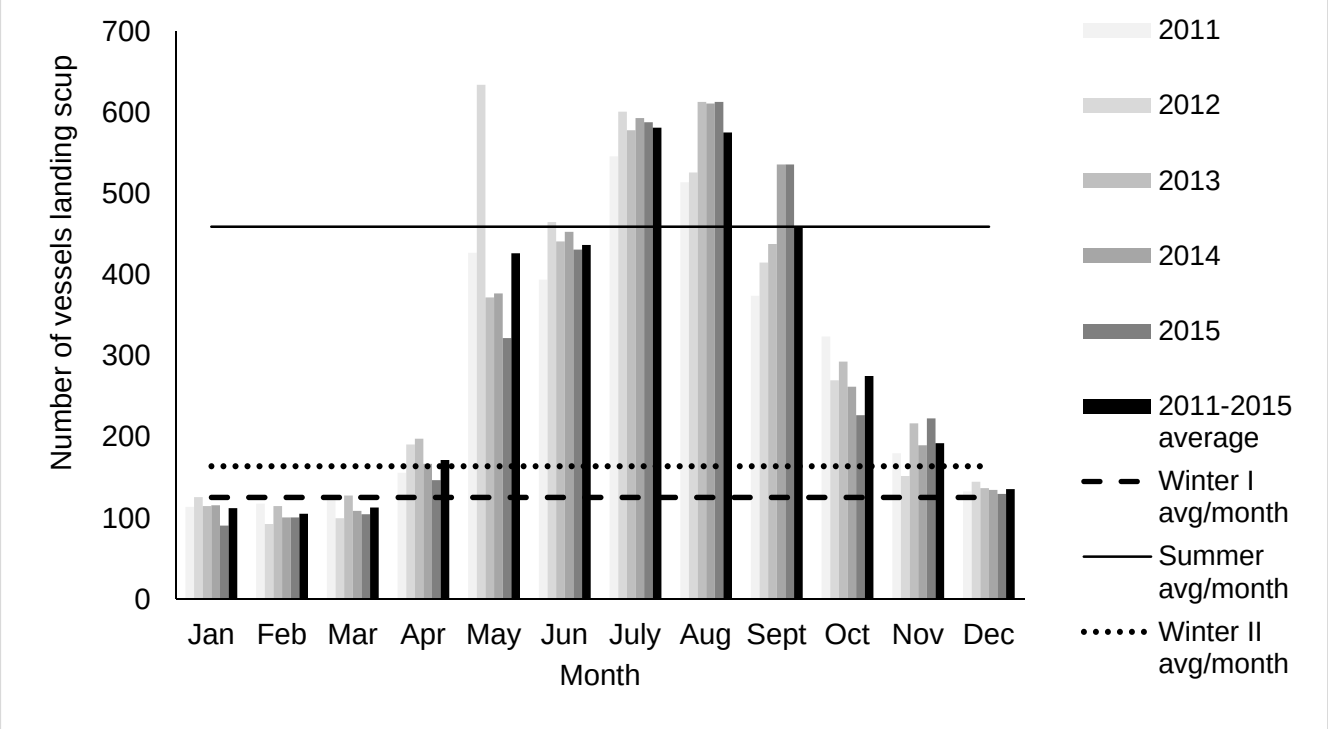


Figure 3: Number of commercial vessels which landed scup per month, 2011-2015 shown with average number of vessels per month during the Winter I (January – April), Summer (May-October), and Winter II (November and December) quota periods. Number of vessels was determined based on a combination of permit number and hull number, as shown in dealer data. Vessels with an unknown permit number and an unknown hull number are not included in this figure.

Table 6: Number of commercial vessels which landed scup per month, 2011-2015 shown with average number of vessels per month during the Winter I (January – April), Summer (May-October), and Winter II (November and December) quota periods. Number of vessels was determined based on a combination of permit number and hull number, as shown in dealer data. Vessels with an unknown permit number and an unknown hull number are not included in this table.

Year	Number of Vessels											
	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sept	Oct	Nov	Dec
2011	114	118	124	156	427	394	546	514	372	324	180	133
2012	126	93	100	191	634	465	601	526	415	270	152	145
2013	115	115	128	198	372	441	578	613	438	293	217	137
2014	116	101	109	167	377	453	593	611	536	262	190	135
2015	91	101	105	147	322	431	588	613	536	227	223	130
Average	112	106	113	172	426	437	581	575	460	275	192	136
Winter I avg/month	126											
Summer avg/month	459											
Winter II avg/month	164											

Landings by Month by State

Table 7. Percent of annual scup landings by month by state. "C" refers to confidential data representing fewer than three vessels and/or dealers.

Month	MA	RI	CT	NY	NJ	DE	MD	VA	NC
Jan	13%	3%	15%	9%	19%	0%	22%	11%	11%
Feb	5%	4%	14%	6%	19%	0%	25%	9%	75%
Mar	3%	7%	12%	10%	20%	0%	30%	39%	1%
Apr	3%	7%	17%	16%	23%	0%	21%	24%	7%
May	16%	15%	3%	10%	1%	C	0%	1%	0%
Jun	6%	10%	6%	11%	1%	0%	0%	C	0%
Jul	23%	7%	5%	4%	0%	0%	0%	C	0%
Aug	21%	9%	4%	3%	0%	0%	0%	0%	0%
Sep	6%	11%	3%	3%	1%	C	0%	0%	0%
Oct	2%	14%	6%	7%	2%	C	0%	1%	0%
Nov	2%	9%	7%	12%	6%	C	0%	6%	0%
Dec	2%	5%	7%	9%	8%	C	2%	8%	6%

Landings by Vessel Size

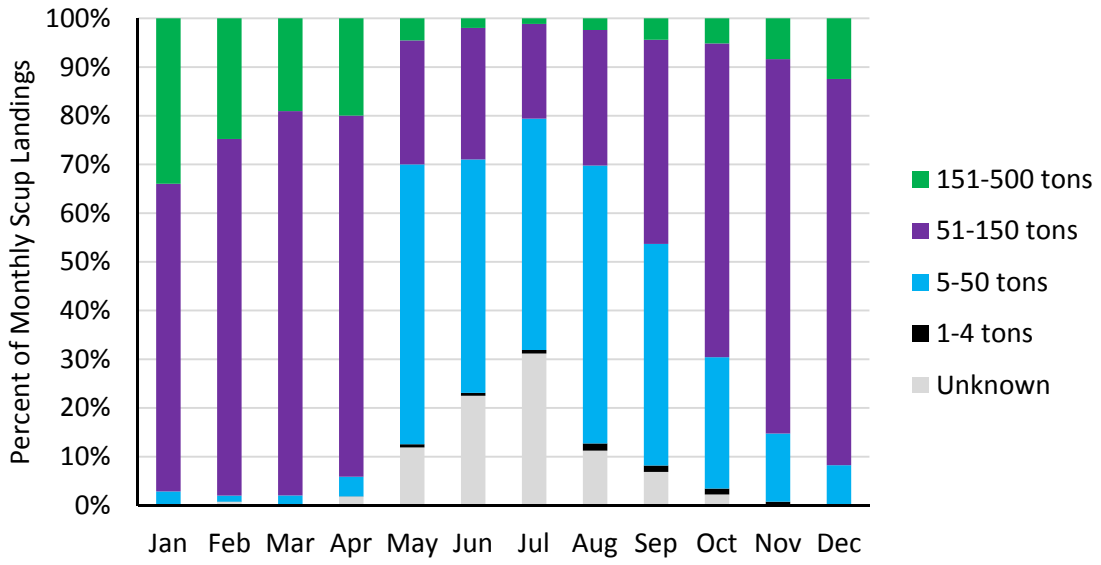


Figure 4. Average scup landings by month by vessel ton class, 2011-2015. Data for vessels greater than 500 tons are confidential and are not shown.

Recreational Landings

Table 8. Percent of annual landings by wave and by state, 2013-2015. (Source: MRIP data, downloaded January 11, 2017).

State	May/June	July/Aug	Sept/Oct	Nov/Dec
MASSACHUSETTS	73%	15%	11%	0%
RHODE ISLAND	16%	44%	40%	0%
CONNECTICUT	10%	42%	48%	0%
NEW YORK	9%	46%	44%	2%
NEW JERSEY	0%	27%	73%	0%
DELAWARE	7%	4%	0%	89%
MARYLAND	0%	0%	3%	97%
VIRGINIA	0%	35%	65%	0%
NORTH CAROLINA	40%	16%	39%	5%
Total	**32%**	**34%**	**33%**	**1%**

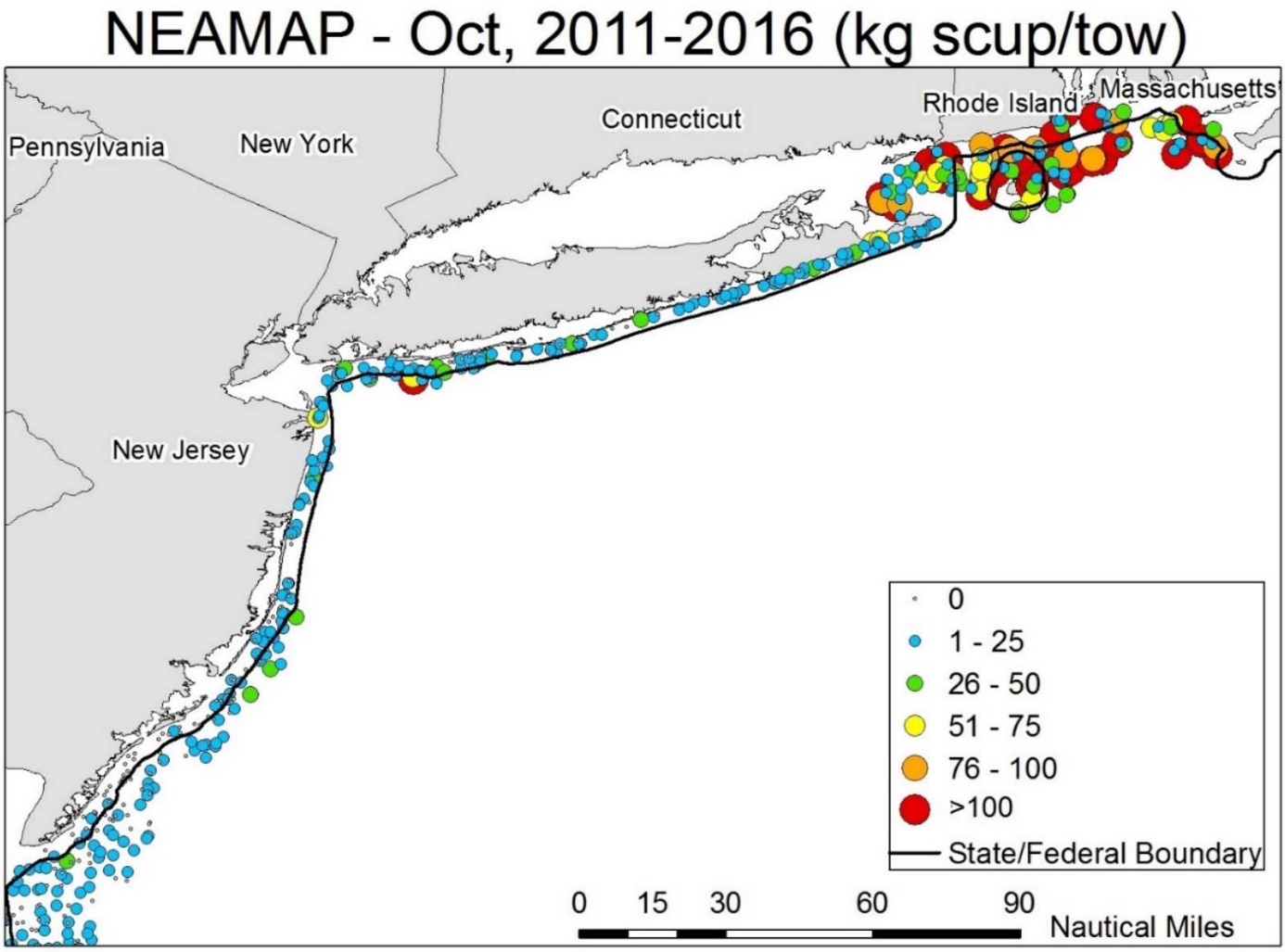


Figure 5. Scup catch per tow in October, 2011-2016, in the NEAMAP trawl survey off the states of Massachusetts through New Jersey.

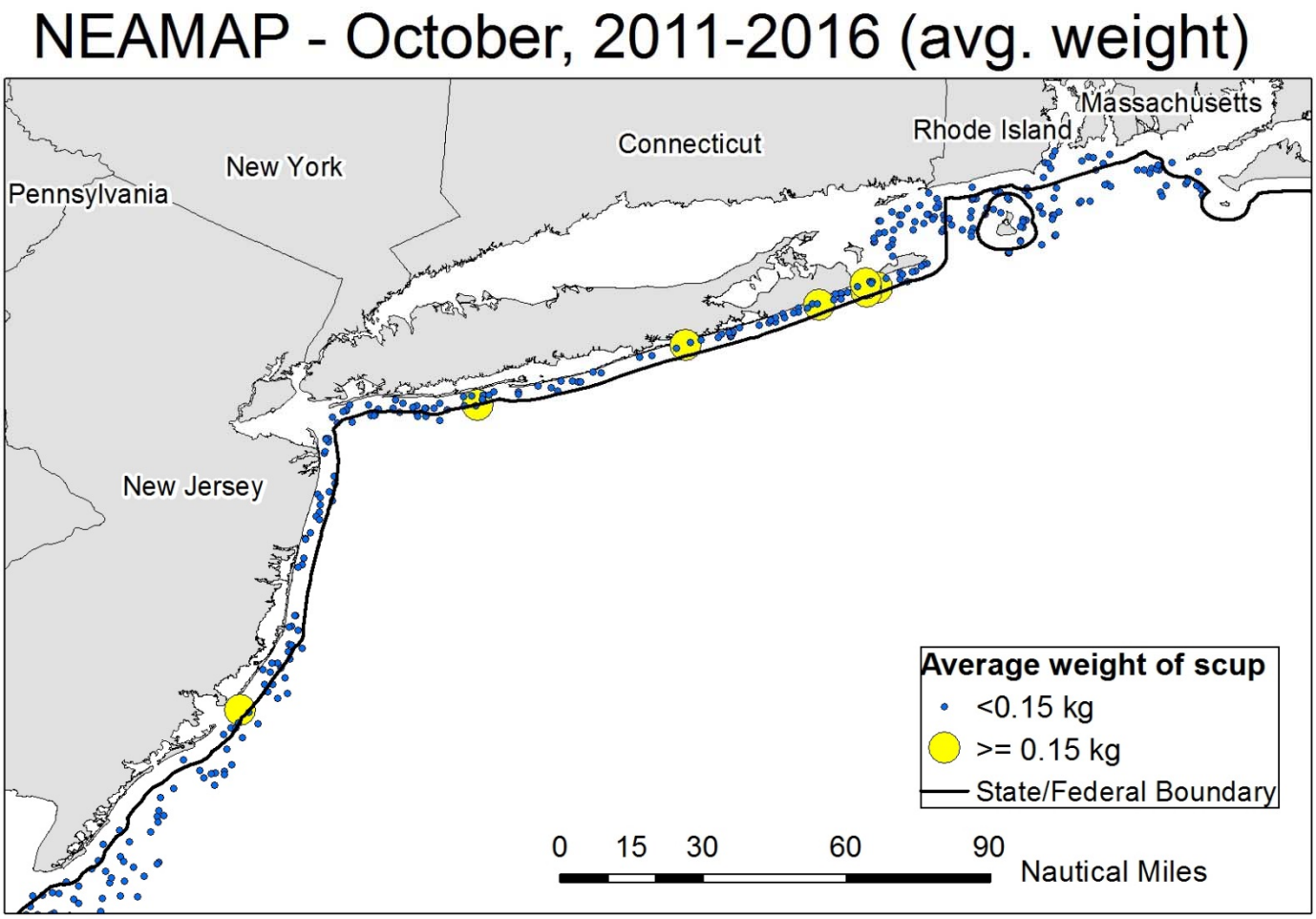


Figure 6. Average weight per scup in NEAMAP tows from Massachusetts through New Jersey, October, 2011-2016. Average weights are shown as those less than 0.15 kg and those greater than or equal to 0.15 kg, which is approximately the weight of a scup that has reached the commercial minimum size of nine inches total length (based on Morse 1978 and Hamer 1979).

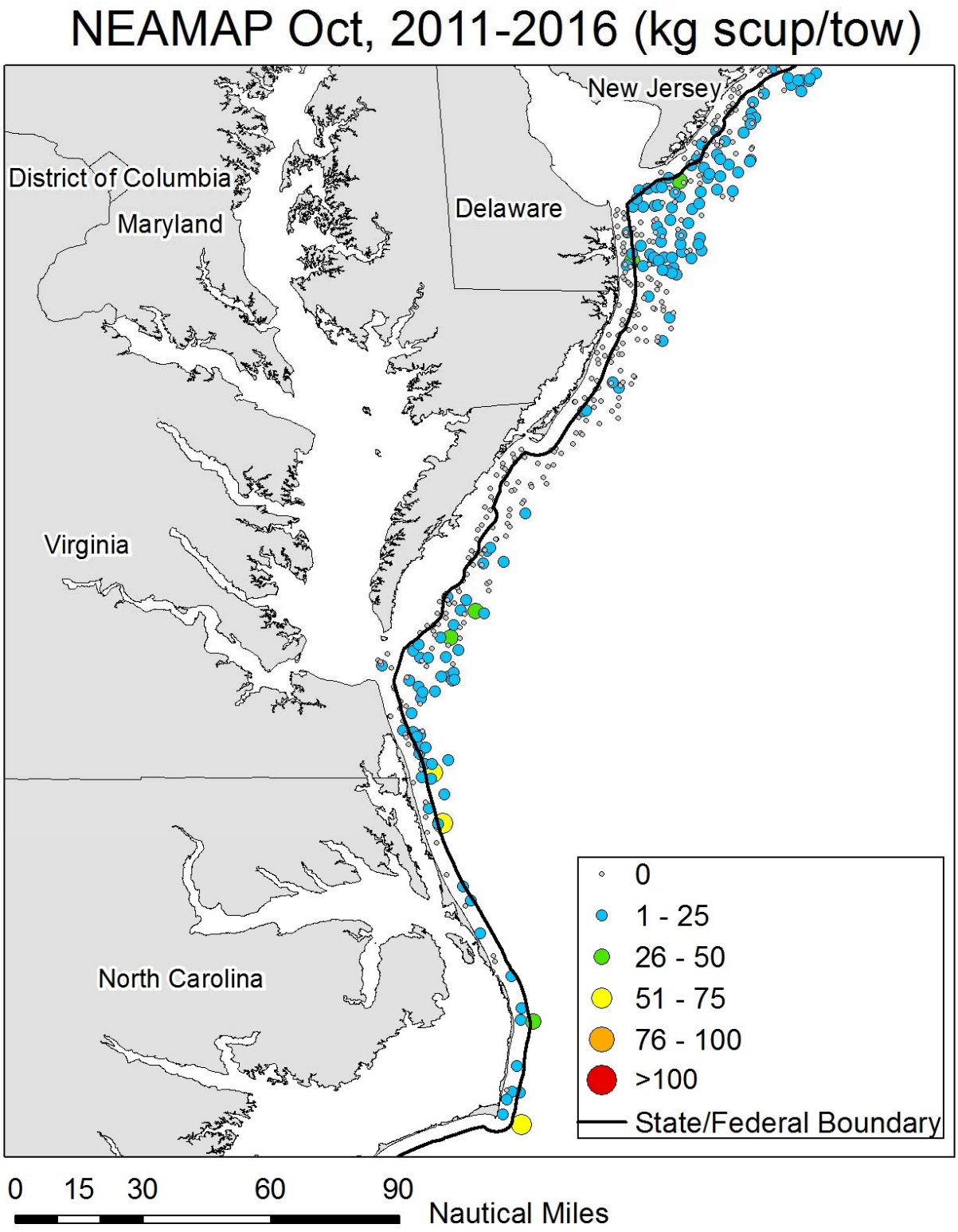


Figure 7. Scup catch per tow in October, 2011-2016, in the NEAMAP trawl survey off the states of Delaware through North Carolina.

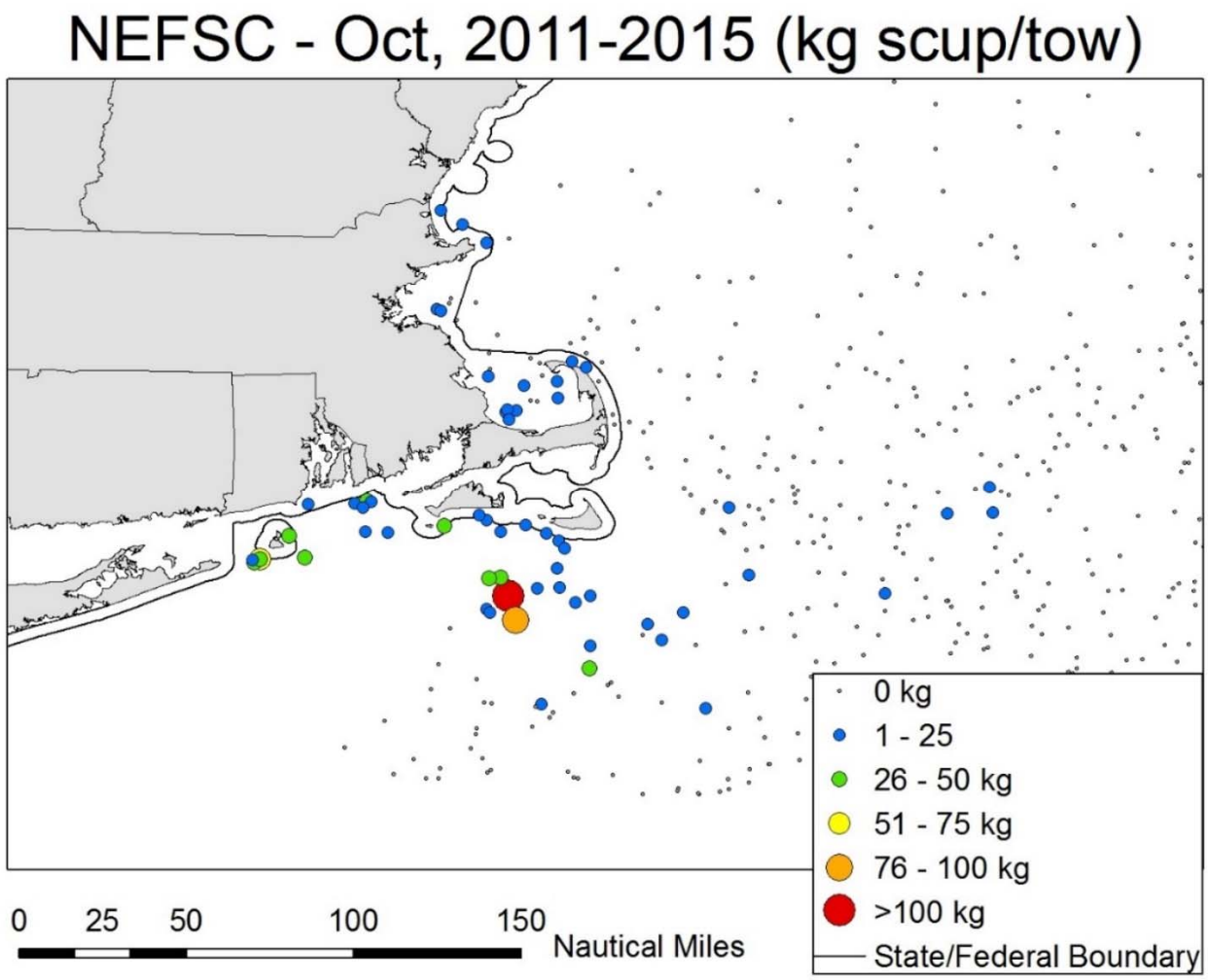


Figure 8. Scup catch per tow in October, 2011-2015, in the NEFSC fall bottom trawl survey.

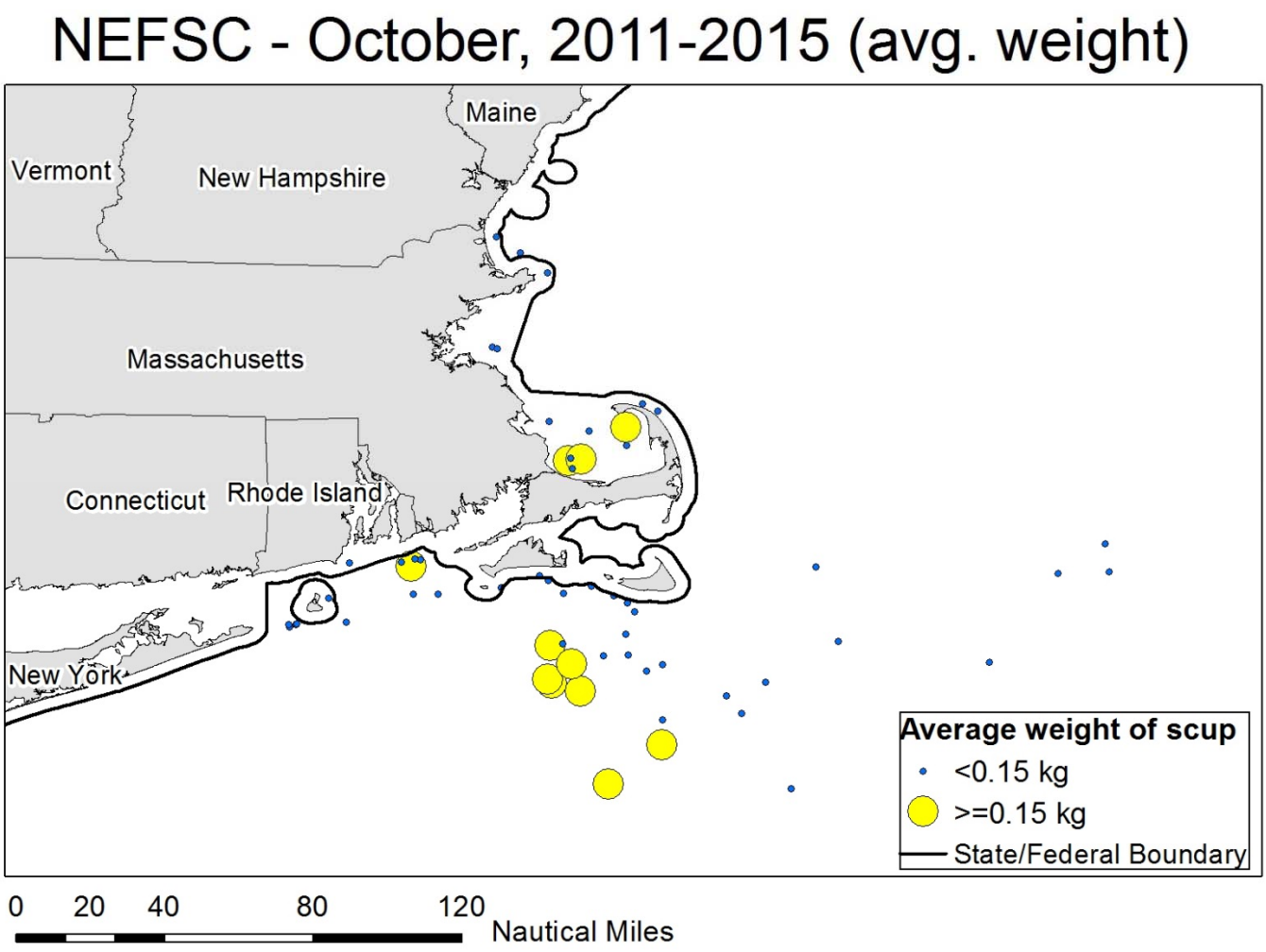


Figure 9. Average weight per scup in NEFSC fall bottom trawl survey tows, October, 2011-2015. Average weights are shown as those less than 0.15 kg and those greater than or equal to 0.15 kg, which is approximately the weight of a scup that has reached the commercial minimum size of nine inches total length (based on Morse 1978 and Hamer 1979).

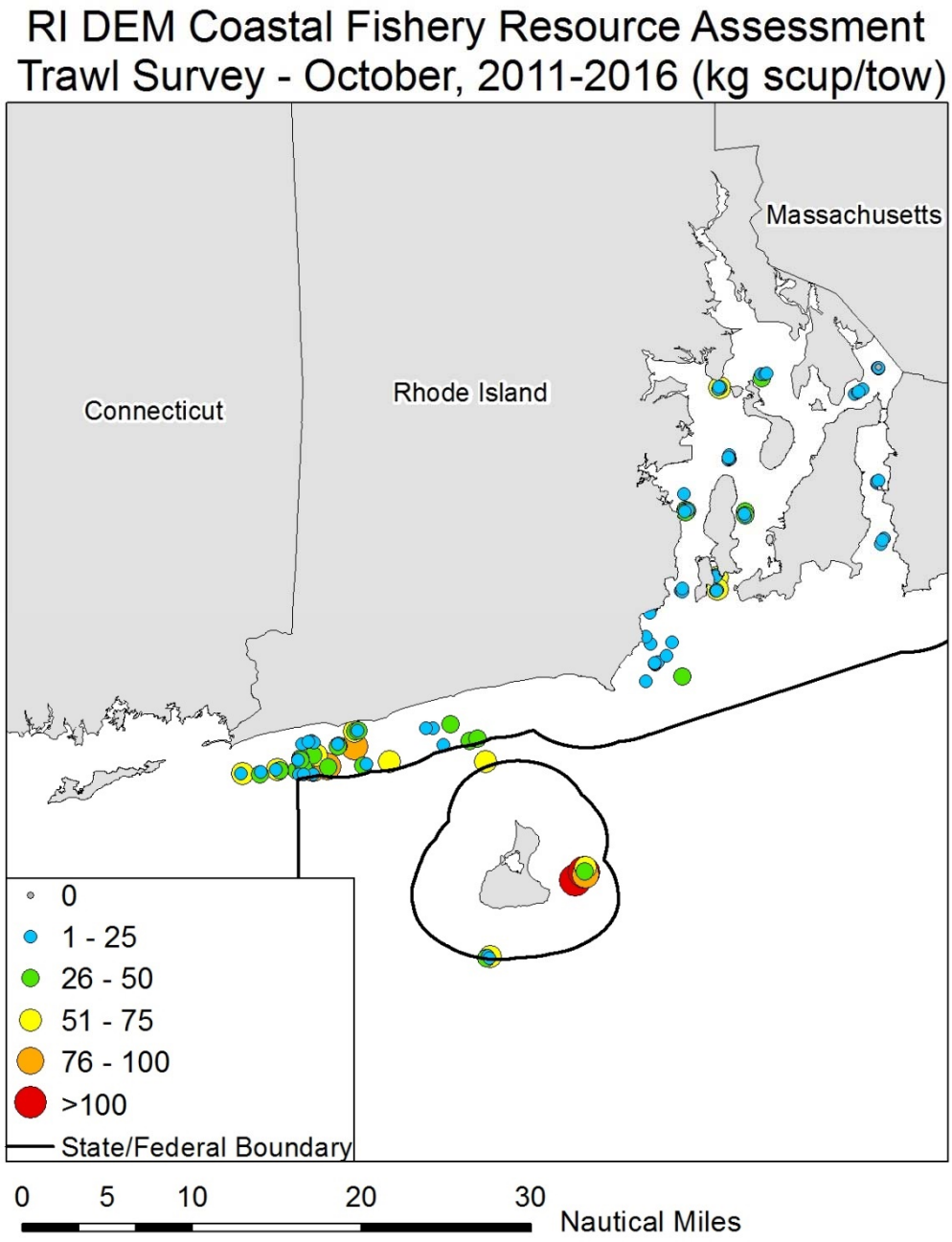


Figure 10. Scup catch per town in the RI DEM coastal fishery resource assessment trawl survey, during October, 2011-2016.

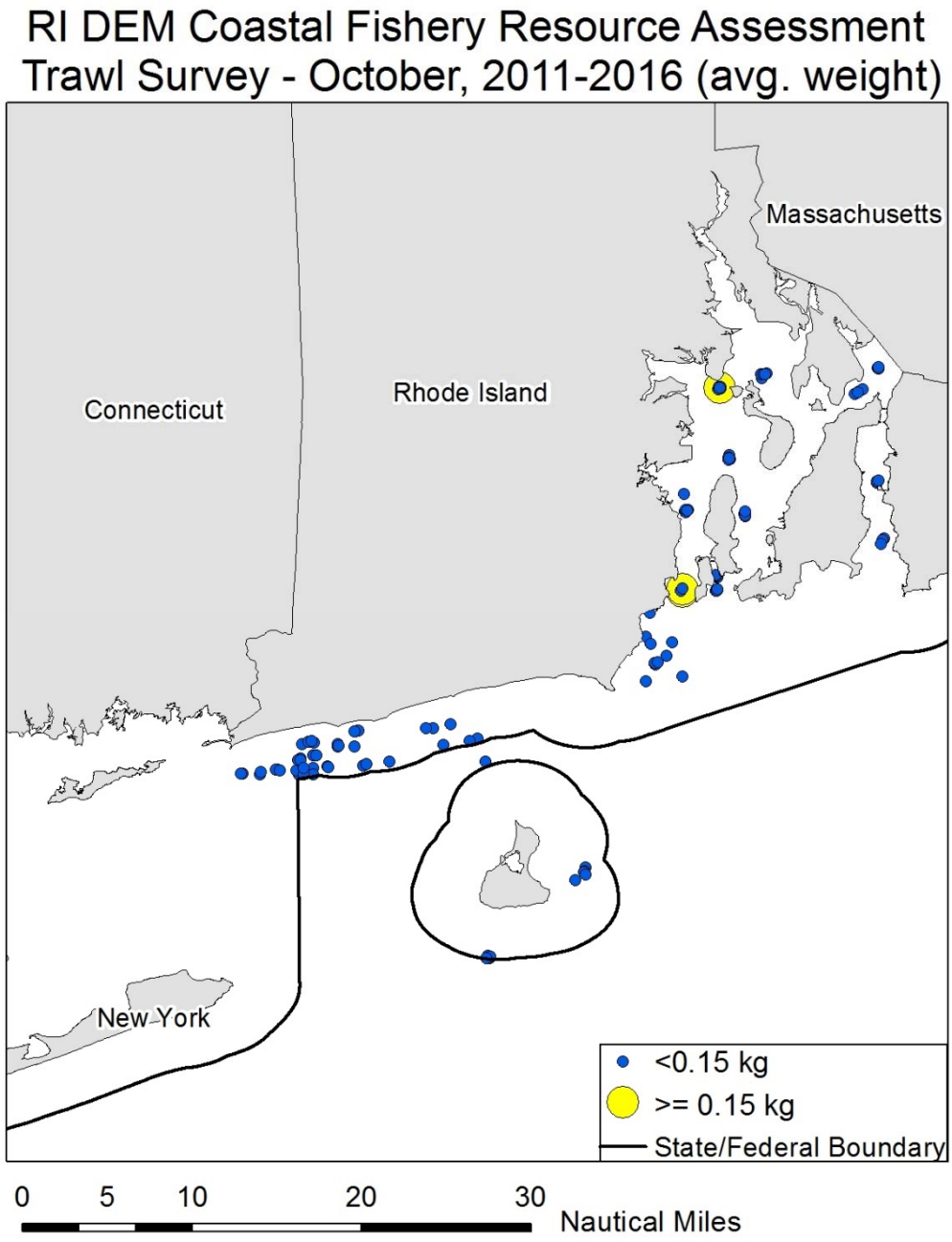


Figure 11. Average weight per scup in the RI DEM coastal fishery resource assessment trawl survey, October, 2011-2016. Average weights are shown as those less than 0.15 kg and those greater than or equal to 0.15 kg, which is approximately the weight of a scup that has reached the commercial minimum size of nine inches total length (based on Morse 1978 and Hamer 1979).

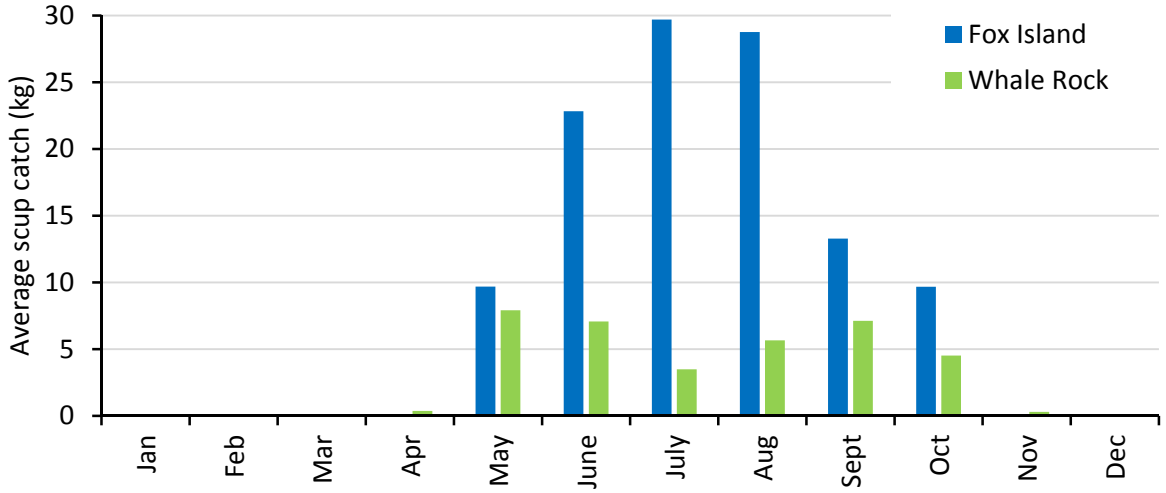


Figure 11. Average scup catch by month in the URI GSO Narragansett Bay fish trawl survey, 2011-2015.

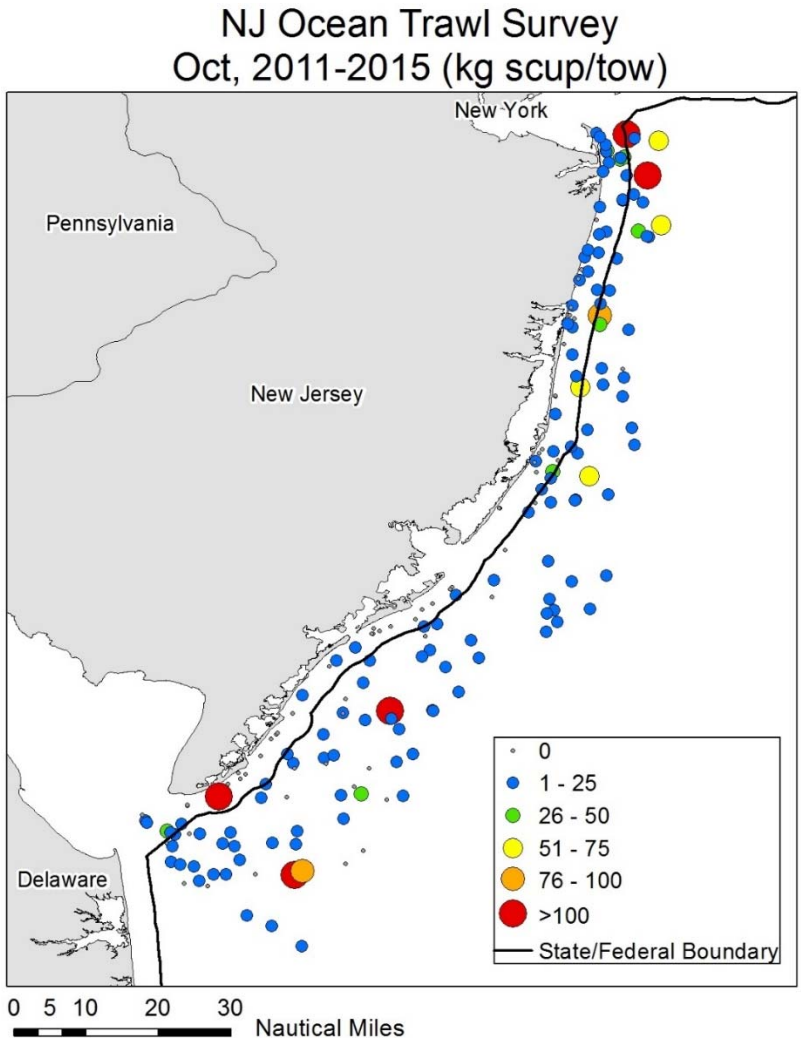


Figure 12. Scup catch per tow in October, 2011-2015, in the New Jersey Ocean Trawl Survey.

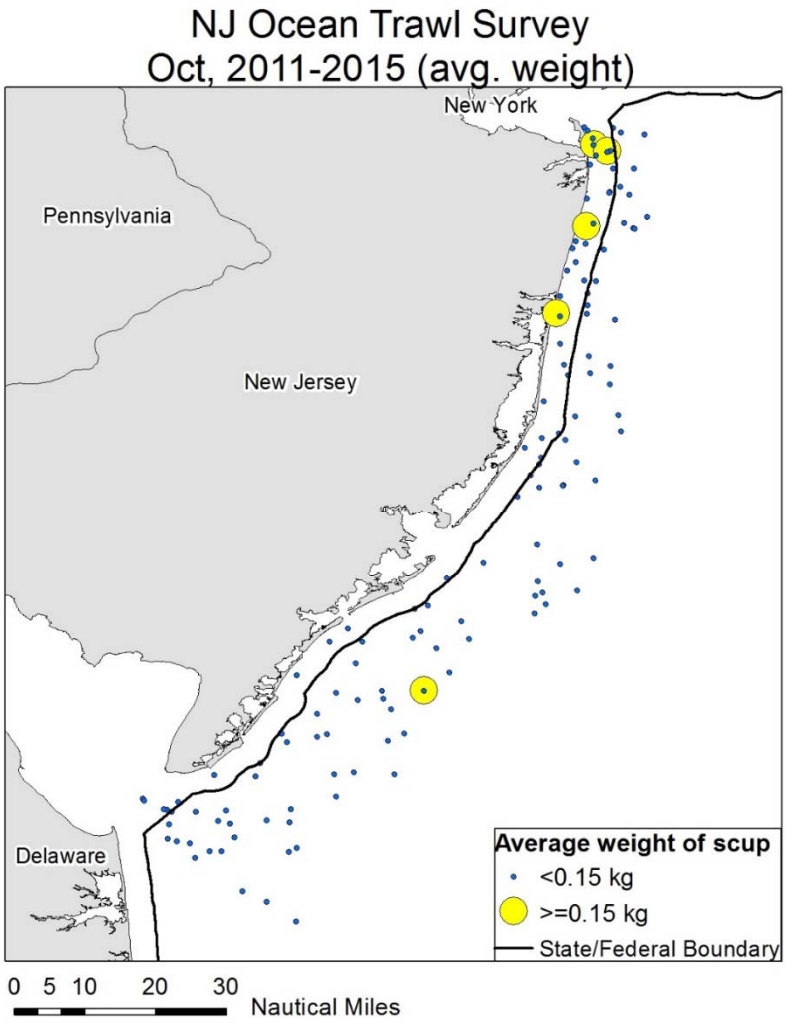


Figure 14. Average weight of scup caught in in the New Jersey Ocean Trawl Survey, October, 2011-2015. Average weights are shown as those less than 0.15 kg and those greater than or equal to 0.15 kg, which is approximately the weight of a scup that has reached the commercial minimum size of nine inches total length (based on Morse 1978 and Hamer 1979).

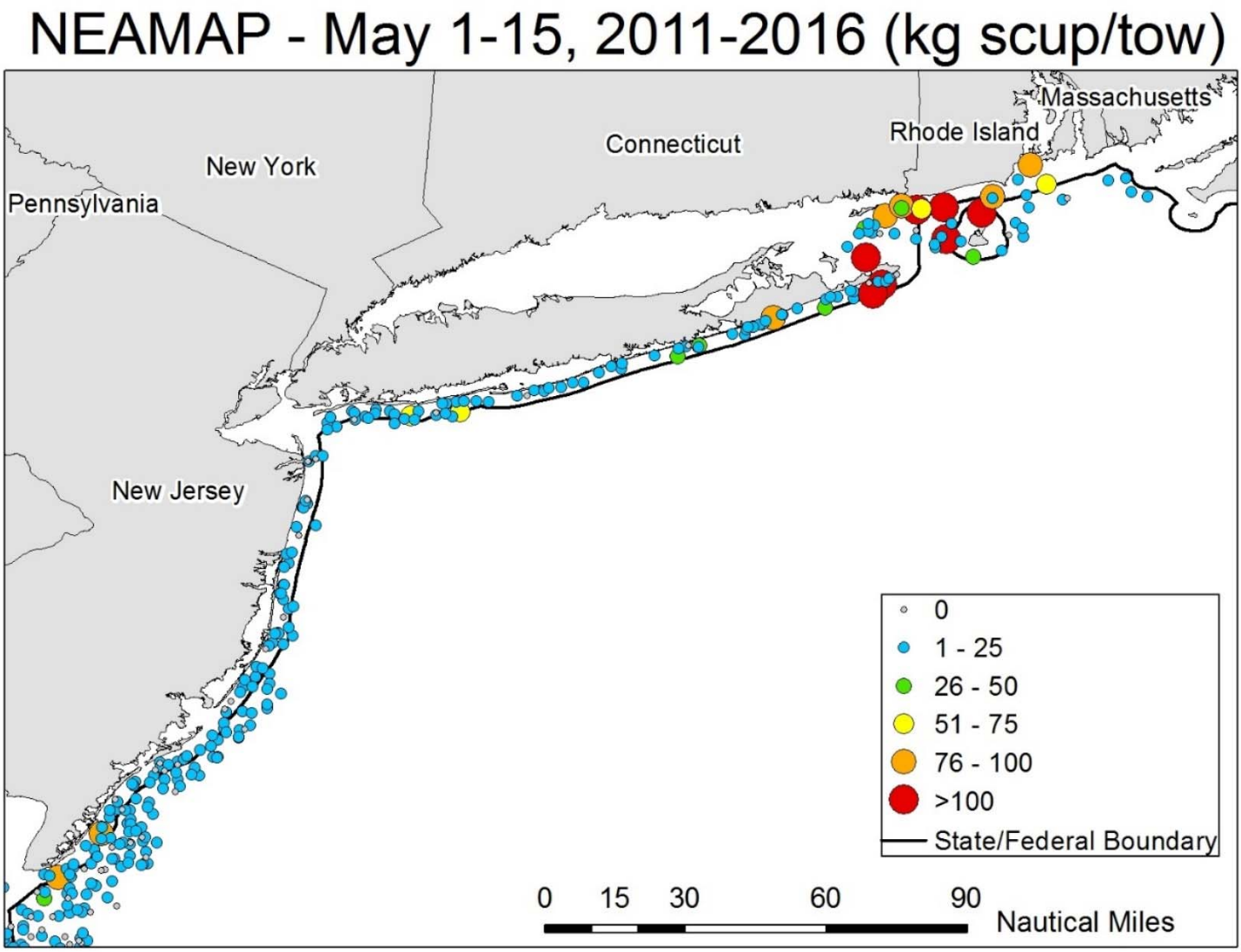


Figure 15. Scup catch per tow, May 1-15, 2011-2016, in the NEAMAP trawl survey off the states of Massachusetts through New Jersey.

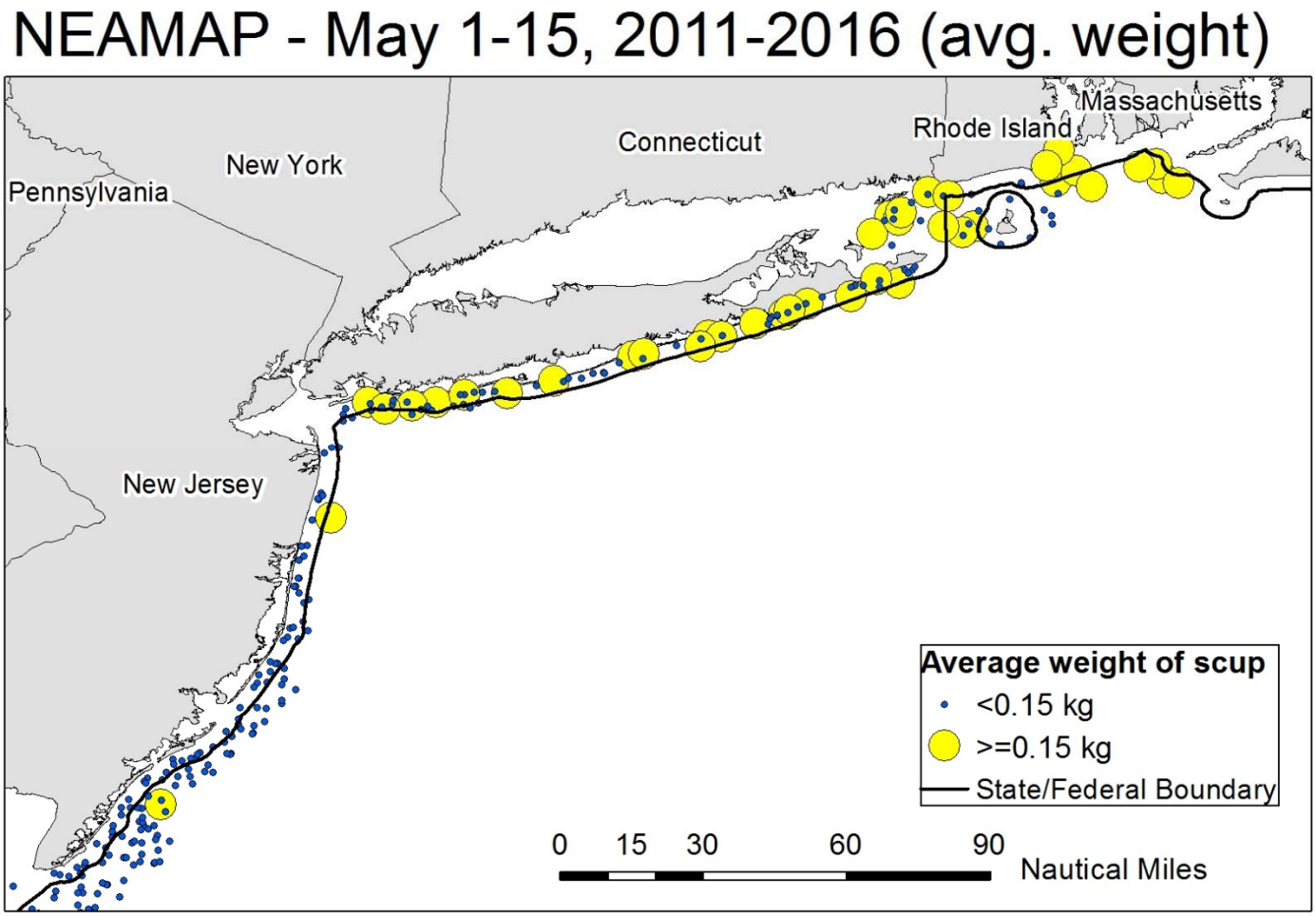


Figure 16. Average weight per scup in NEAMAP tows from Massachusetts through New Jersey, May 1-15, 2011-2016. Average weights are shown as those less than 0.15 kg and those greater than or equal to 0.15 kg, which is approximately the weight of a scup that has reached the commercial minimum size of nine inches total length (based on Morse 1978 and Hamer 1979).

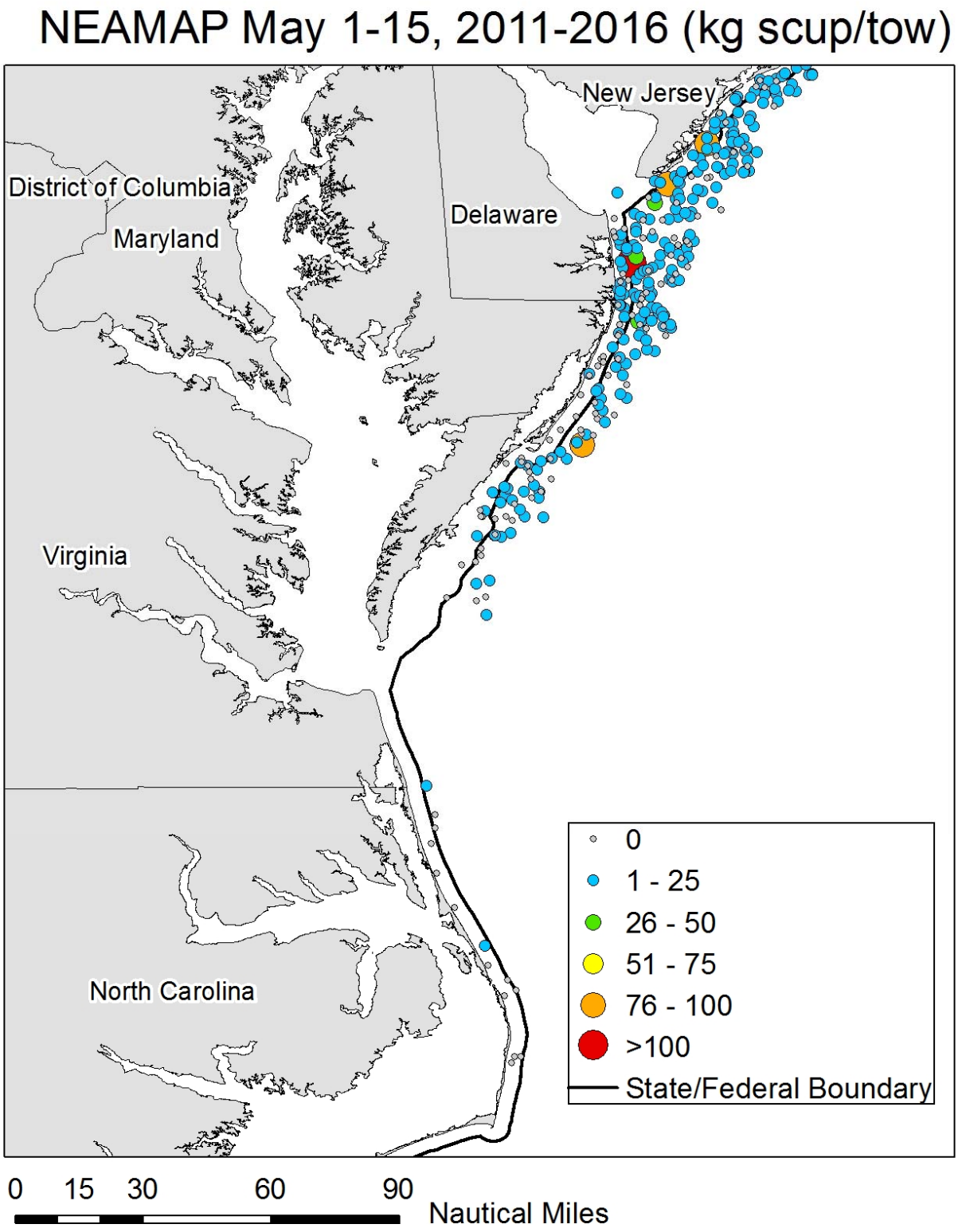


Figure 17. Scup catch per tow, May 1-15, 2011-2016, in the NEAMAP trawl survey off the states of Delaware through North Carolina.

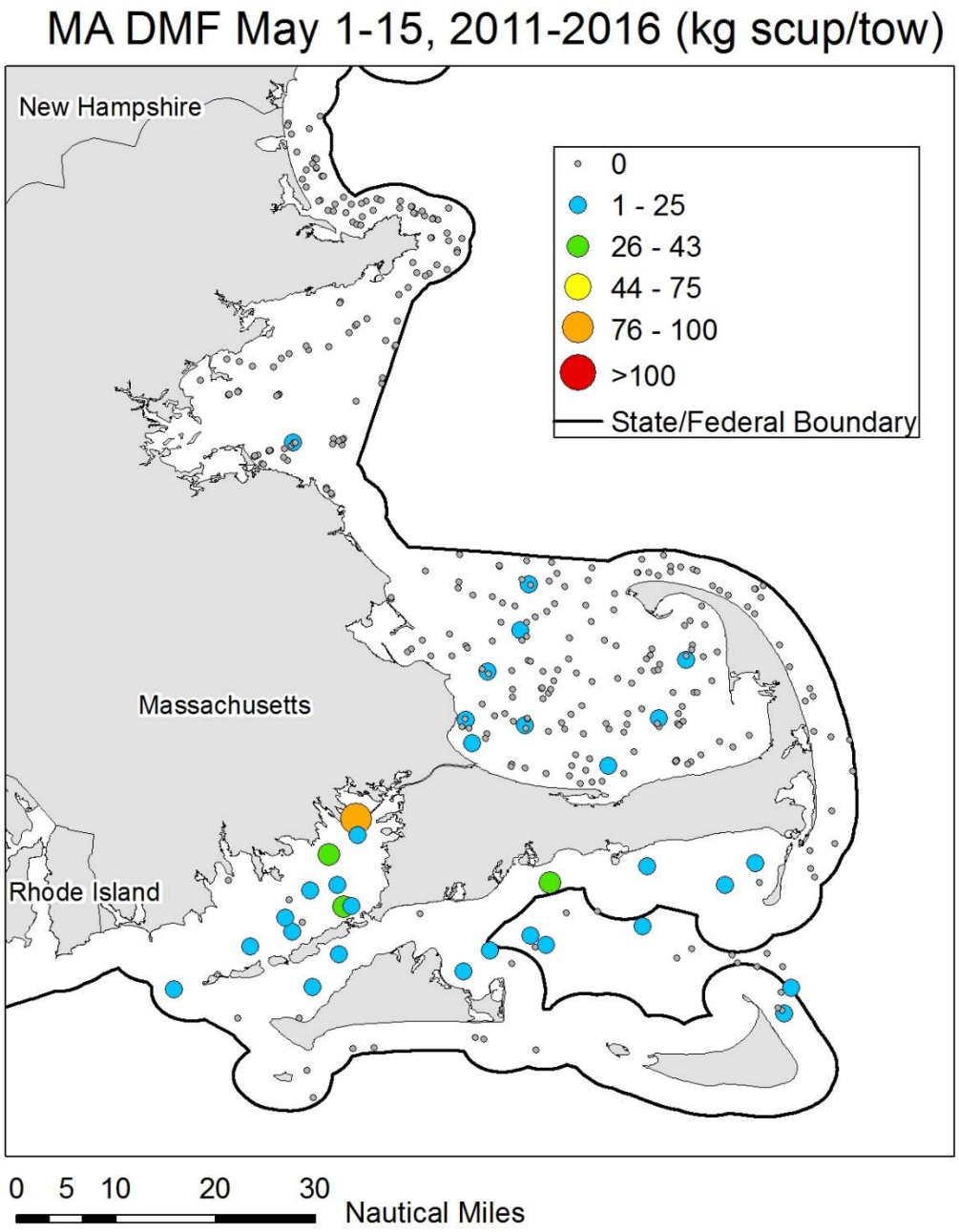


Figure 18. Scup catch per tow in the MA DMF spring trawl survey, May 1 – 15, 2011-2016.

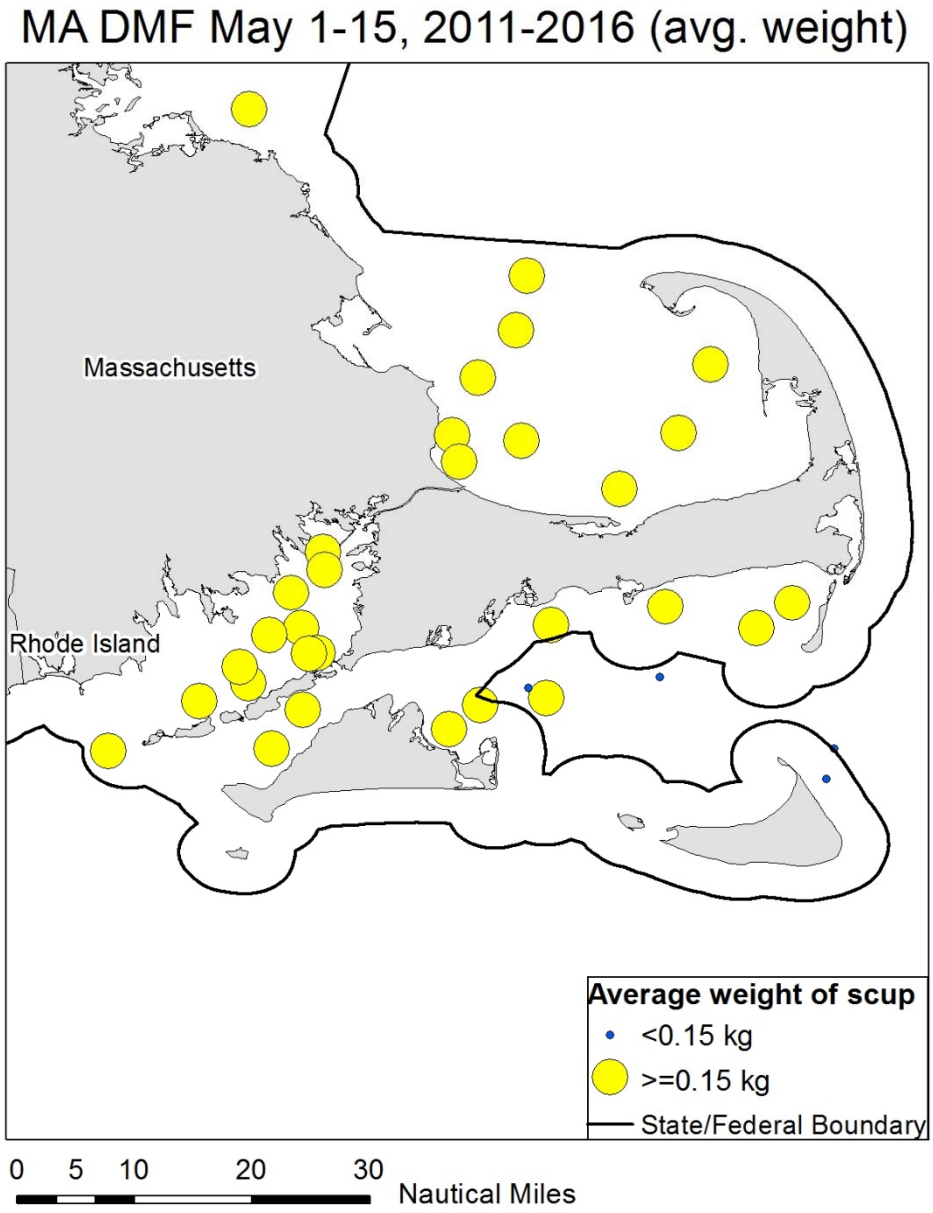


Figure 19. Average weight per scup in the MA DMF spring trawl survey, May 1 – 15, 2011-2016. Average weights are shown as those less than 0.15 kg and those greater than or equal to 0.15 kg, which is approximately the weight of a scup that has reached the commercial minimum size of nine inches total length (based on Morse 1978 and Hamer 1979).

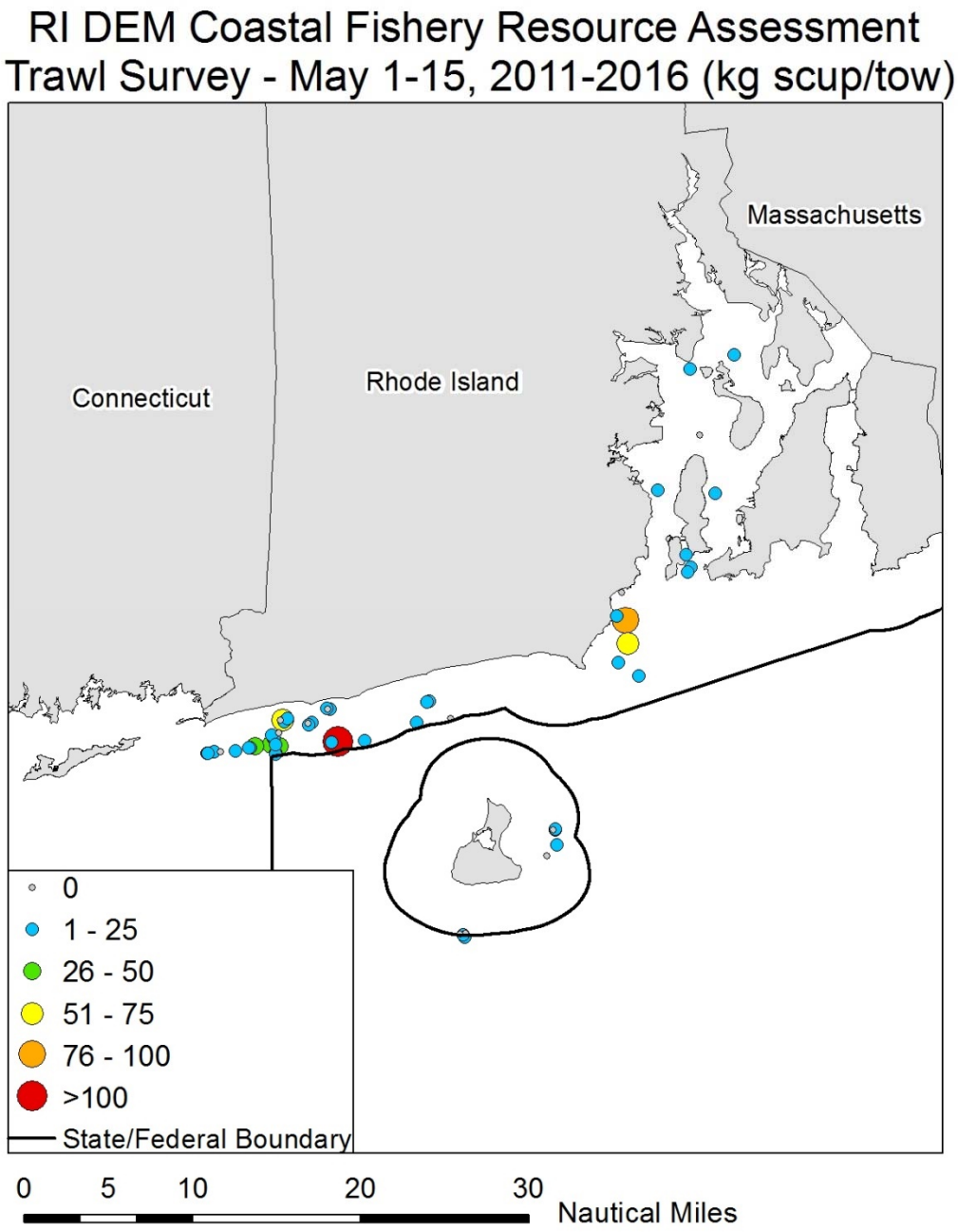


Figure 20. Scup catch per town in the RI DEM coastal fishery resource assessment trawl survey, May 1-15, 2011-2016.

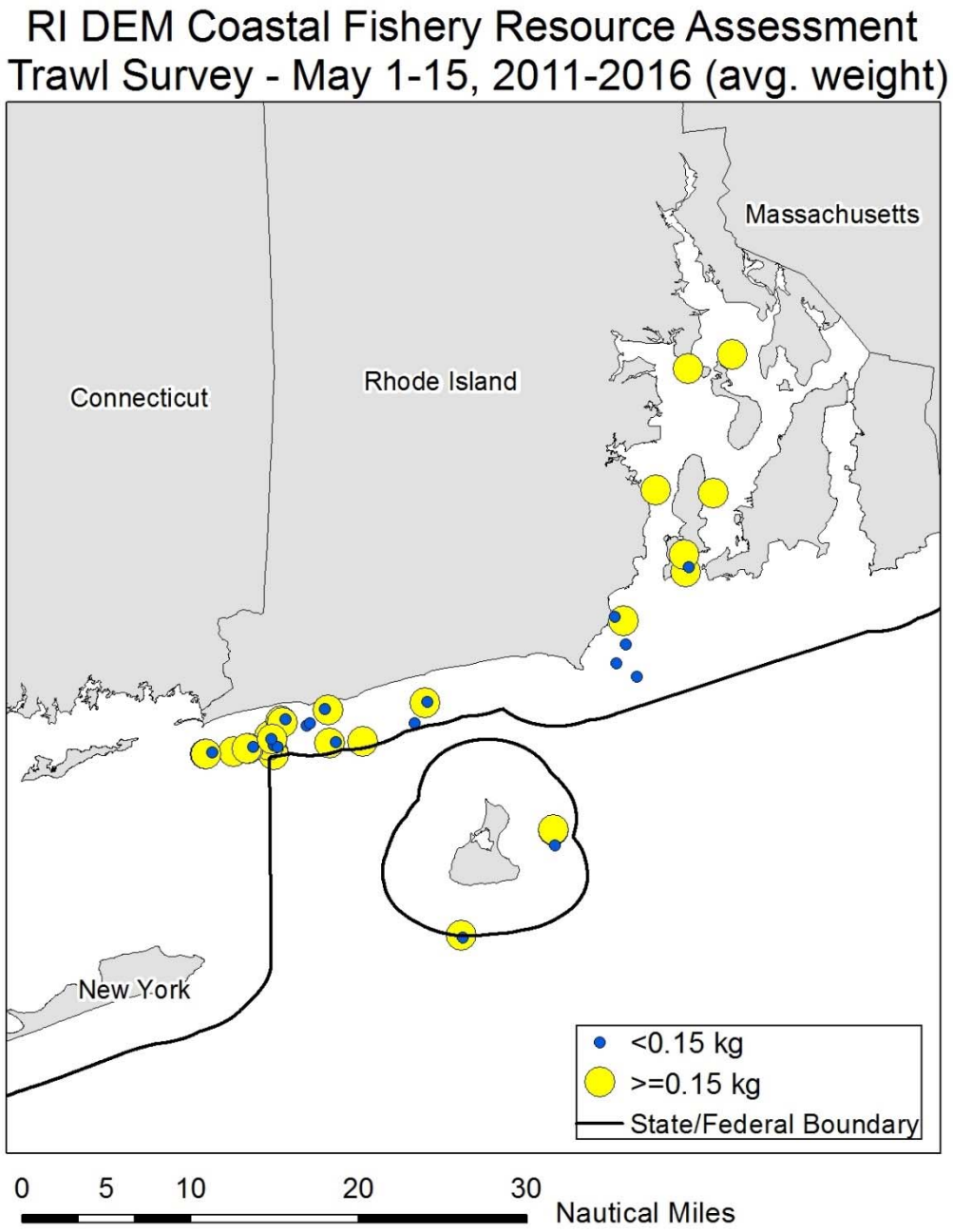


Figure 21. Average weight per scup in the RI DEM coastal fishery resource assessment trawl survey, May 1-15, 2011-2016. Average weights are shown as those less than 0.15 kg and those greater than or equal to 0.15 kg, which is approximately the weight of a scup that has reached the commercial minimum size of nine inches total length (based on Morse 1978 and Hamer 1979).

Clarification on Draft Addendum XXIX: Scup Commercial Quota Management Alternative 3
and
Public Comment Summary

Please note: on page 7 of the draft addendum document, Alternative 3 incorrectly states that the first two weeks of May would be moved to the Summer quota period. Alternative 3 in the draft addendum proposes to move the first two weeks of May to the Winter I period. Under Alternative 3, the new start date for Summer quota period is May 16. Following the first sentence describing Alternative 3, the language for the alternative indicates how long the Winter I period would be extended in number of days in May (15) as well as the total number of days (from 120 to 135). The sub-alternatives (3A-3C) correctly explain the accounting procedure for the extension of the Winter I period.

Public comments offered in support of Alternative 3 indicated a clear understanding that the alternative would shorten the Summer quota period and extend the Winter I period by 15 days.

DRAFT ADDENDUM XXIX TO THE INTERSTATE FISHERY MANAGEMENT PLAN FOR SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS

PUBLIC HEARINGS SUMMARIES

Date	Location
March 20, 2017	Old Lyme, Connecticut
March 21, 2017	Narragansett, Rhode Island
March 23, 2017	Buzzards Bay, Massachusetts
March 28, 2017	East Setauket, New York

April 2017

PUBLIC HEARING SUMMARY
Draft Addendum XXIX to the Summer Flounder, Scup, and Black Sea Bass the Interstate Fishery Management Plan

Connecticut

DEEP Marine Headquarters Boating Education Center
333 Ferry Rd
Old Lyme, Connecticut

3/20/2017

Public Attendance: see sign-in sheet (7 members of the public)

State and ASMFC Personnel:
Rep. Craig Miner (ASMFC Commissioner)
Mark Alexander (ASMFC Proxy Commissioner)
Matt Gates (CT DEEP)
Colleen Giannini (CT DEEP)
Kirby Rootes-Murdy (ASMFC)

Summary

Of the 7 members of the public in attendance, 3 spoke against all options offered in the draft addendum. Those who spoke against the options in the addendum, indicated their preference was to lower the federal trip limit in Winter I from 50,000 pounds to approximately 25,000 and to rollover unused quota from Winter I to the Summer period. Those speaking in favor of these recommendations not included in the draft addendum argued that volatility in the price per pound of scup during Winter I is largely driven by the high federal trip limit, and that when multiple federally permitted vessels land fish at or near the trip limit, the large volume of scup 'floods the market', resulting in a decrease in price due to the increase in supply. Additionally, those arguing in favor of these changes noted that maintaining a lower trip limit throughout the year, would allow the price to remain at a more stable, higher level for a longer period time. Those in favor of a lower trip limit lower trip limits noted that it would keep supply stable and maintain a higher price for a longer period of time throughout the year, those in favor of these changes argued that any underutilization of the quota in any of the periods (Winter (I, Summer, Winter II) would be addressed. The attendees explained that currently, quota underages are due to low market prices and subsequent low demand, making efforts to fully utilize the current quotas in Winter I and II uneconomical for federal permit holders. It was pointed out that though alternatives 2 and 3 may allow for the state to increase their trip limits during the summer period to better maximize the state quota, the attendees felt that state trip limits would only increase marginally and would be less helpful then lowering current federal trip limits. Lastly, one attendee did provide extended written comments at the public hearing-those comments follow this summary.

New London Seafood Dist. Inc
114 Smith Street
New London, CT 06320
Ph/Fax- (860) 227-7283

March 20,2017

DEEP
333FerryRd.
Old Lyme, CT 06371

To whom it may concern:

As a concerned participant in the Commercial fishing industry I have been solicited to speak for a number of Connecticut fisherman, Connecticut seafood unloading facilities and a number of Seafood purveyors from the NY Fulton Fish Market, Jessop, Maryland and Philadelphia, Penn.

We are speaking about the Mid Atlantic Fishery Management Councils approach to how the Scup allocations have been designated. For years the Federal regulation Winter I period (Jan 1- April 30) has been a 50,000 pound trip limit. The Summer Period (May 1 - Oct 31) falls under State regulations and is divided up according to historic landings. The Winter II period (Nov 1- Dec 31) this year is a 12,000 initial trip limit, then to be adjusted.

This management scheme hasn't been an efficient method of harvesting nor has it had any continuity for the fisherman, fish houses or the general public.

The old days, where fisherman could just "dump truck" scup to port have come to a close. We have to look closer at what has happened in the fisheries, market place and the public whom purchases the scup.

There have been a lot of reasons for these changes, some of which I will discuss, some which I am sure to miss and other brains will have ideas and solutions for. I have been a commercial fisherman for over forty years in Connecticut, fishing the early years in Long Island Sound then moving to Federal waters as the fish pie got divided up throughout the different states. We can review how and why the Mid Atlantic States has the lions share of the Fluke, BSB and Scup landings. This won't identify how the scup fishery has evolved. The scallop industry and Loligo Squid

industries have grown many times over. With this growth has come huge investments not only in the production from the fisherman but substantial growth in marketing and shore side capabilities . A lot of the fisherman from the Mid Atlantic region as well as fisherman from Rhode Island and Connecticut went in that direction.

Due to monies flowing and the availability of quick lucrative squid and scallop trips, the scup landings started dropping off. A lot of this is attributed to scup regulations being heavily implemented. The scup marketplace has always been a moderately priced ethnic fish in the fresh market. Due to the drastic fluctuations in landings due to the growth of these other fisheries, scup started to lose ground in the fresh market. Due to the nature of such large limits during the Winter I period there was a glut of fish driving the prices so low the fisherman and fish houses couldn't make any money or the market would go sky high because of the lack of scup. No happy medium. Introduction of aquacultured fish such as Tilapia , a robust marketing campaign targeting restaurants, large chain stores and a steady supply has badly eaten into the once strong scup strong hold.

I believe we can help correct this feast and famine situation. The Winter I period limit of 50,000 pounds should be reduced to 25-30 thousand pound limits. Take the poundage not landed in the Winter I period, divide it up amongst the States according to their historic percentages for the Summer period. Then utilize the last of the quota for the remaining Winter II period.

I realize that the Mid Atlantic Council has different ideas about how to solve the problem. I and the group of people I have been working with do not think it will solve the issue. What the current management plan has created is a large and jumbo scup that looks wonderful, but is not in high demand in the marketplace. The nature of the Scup consumer is going to remain fresh market. The failure to allow more Scup to be harvested during the summer is huge. We do not need to extend the Winter I period and to stay with the 50,000 limit will not solve the problem, either.

From the fisherman's standpoint, they are constantly fearful of any changes. The changes they are used to are usually taking something away form any already struggling industry. The council has a chance here to do something productive for the fisherman, the fish houses and the consumers. We'll see if they have the vision to make the right choices.

Thank you for taking the time to read these recommendations and for any support you can provide. I can be reached on my direct line (860)227-7283 or at swim@snet.net

Sincerely yours,

Gary J. Yerman

Draft Addendum XXIX to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan for Public Comment

Atlantic States Marine Fisheries Commission

March 20, 2017

Connecticut

-- PLEASE PRINT CLEARLY --

Name	Company/Organization	City, State
Mike Gambardella	Gambardella	Stonington, CT
GARY YERMAN	New London Seafood	New London, CT
T. KARBOWSKI		
Douglas Voganny	F/V KESTREL	Guilford, CT
Robert Guzzo	F/V Jenna Lynn II	Stonington CT
Chris Kapples		Stratford CT
Samantha Sirin	AIS Inc.	Pt Judith RI
Craig Miner	CT Legislature	Litchfield CT

PUBLIC HEARING SUMMARY
Draft Addendum XXIX to the Summer Flounder, Scup, and Black Sea Bass the Interstate Fishery Management Plan

Rhode Island

University of Rhode Island
Bay Campus Corliss Auditorium
South Ferry Road
Narragansett, Rhode Island

3/21/2017

Public Attendance: (3 members of the public) Jerry Carvalho, Donald Fox, Mike Hall

State Personnel:

Jason McNamee (ASMFC TC Member)

Robert Ballou (ASMFC Proxy Commissioner)

Nicole Lengyel (RI DEM)

Summary

All three meeting participants provided oral comments. All supported status quo. They offered a number of reasons, most involving the potential for adverse impacts to inshore fishery participants, including but not limited to state-only permit holders, if the summer season were shortened. Alternative 3 was of particular concern, and sub-option 3A was strongly opposed since it could result in a 2-week closed season.

All three participants noted that the quota period dates under the current management program are generally working well and do not need to be modified. It was also noted that in view of the declining trend in annual quota, and increasing trend in annual landings, the problem of under-harvesting is likely to resolve itself, thus obviating the need for any changes to the current management program.

One participant suggested that, in lieu of modifying the dates of the quota periods, as proposed in the draft Addendum, consideration be given to increasing the possession limits during the existing federal Winter periods.

PUBLIC HEARING SUMMARY
Draft Addendum XXIX to the Summer Flounder, Scup, and Black Sea Bass the Interstate Fishery Management Plan

Massachusetts
Maritime Academy Admiral's Hall
101 Academy Drive
Bourne, Massachusetts

3/23/2017

Public Attendance: see sign-in sheet (4 members of the public)

State and ASMFC Personnel:
Raymond Kane (ASMFC Commissioner)
Dan McKiernan (MA DMF)
Megan Ware (ASMFC)

Public Comments:

- Two individuals recommended that the season dates not be changed (status quo). Instead of changing the seasons to increase the amount of scup harvested, they recommended that fishermen in Massachusetts be allowed to fish all 7 days of the week and that the daily catch limit in the summer be increased to roughly 2,000 lbs.

- One individual also noted that scup spawn in May, not June, when greater restrictions are put in place in Massachusetts.

Dan, Ray

Draft Addendum XXIX to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan for Public Comment

Atlantic States Marine Fisheries Commission
March 23, 2017
Massachusetts

-- PLEASE PRINT CLEARLY --

Name	Company/Organization	City, State
MICHAEL J. O'MALLEY JR	Dauphinee Fisheries	SCITUATE
FREDERICK W DAUPHINEE	" "	SCITUATE
CHRIS STOCKWELL	F/V JIM DANDY	NORTH DARTMOUTH MA
HENRY BORGES	F/V BLITZ	DARTMOUTH MA

PUBLIC HEARING SUMMARY
Draft Addendum XXIX to the Summer Flounder, Scup, and Black Sea Bass the Interstate Fishery Management Plan

New York

Division of Marine Resources
205 North Belle Mead Road, Suite 1
East Setauket, New York

3/ 28/2017

Public Attendance: see sign-in sheet (5 members of the public)

State and ASMFC Personnel:
Steve Heins (proxy for ASMFC Commissioner Jim Gilmore)
Emerson Hasbrouck (ASMFC Commissioner)
John Maniscalco (NYSDEC staff)

Summary

Unanimous support for Option 3B from all 4 commercial fishers attending the hearing.

David Bornemann: 3B, keep it open with no closures. Small boats can't fish the winter. Long Island Sound needs its own quota because they get access to fish last, after all the other inshore fisheries around NY.

Cynthia Kaminsky: 3B, keep it open and allow us to keep and land all the porgies we can catch. We catch our limit of summer flounder and black sea bass in one tow. Everything else has to go overboard. At least with the higher limits we wouldn't have to discard any porgies.

Arthur Kretschmer: 3B, wants higher limits in May and June when they can get them. With limits always shifting there is no stable business model.

Hank Lackner: 3B, the goal of this addendum should be to reduce discards and catch the quota.

Draft Addendum XXIX to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan for Public Comment

Atlantic States Marine Fisheries Commission
March 28, 2017
New York

-- PLEASE PRINT CLEARLY --

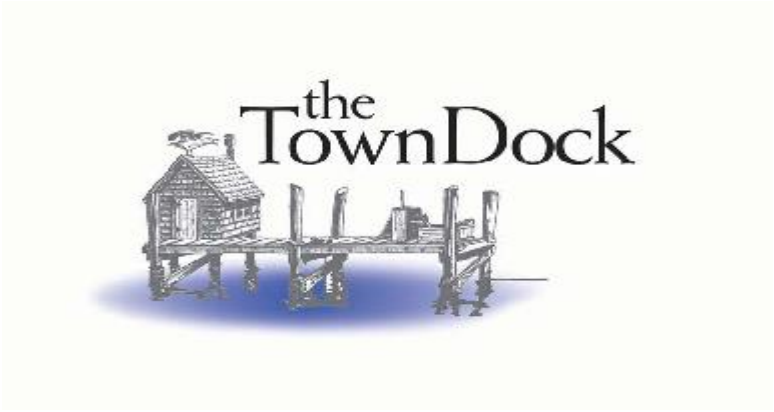
Name	Company/Organization	City, State
Victor Vecchio	NOAA fisheries	Eastampton, N.Y.
David Borneman	LISA	Mount Sinai, NY.
Cynthia Kaminsky	KU Catch This	Mattituck, NY
Arthur Sweetsmeir	MAR-SEA	Mattituck, NY
Paul Caruso		

Written Comment Summary on Draft Addendum XXIX to the Interstate FMP for Summer Flounder, Scup, and Black Sea Bass

In total eight comments were received with regard to Draft Addendum XXIX. Of these comments, two commenters- one of which was a group (Town Dock, RI) - indicated their preference for remaining status quo (Alternative 1), one individual was in favor of moving October to Winter II (Alternative 2), and two commenters- one of which was a group (Long Island Commercial Fishing Association) were in favor of moving October to Winter II and the first two weeks of May to Winter I (Alternative 3). Additionally, three individuals provided comments not specifying a preferred alternative; the first two individuals indicated that the scup fishery should not be closed at any part of year, especially in May due to the gear type used. The second individual indicated their preference that any alternative besides Alternative 1 be selected.

Alt. 1: Status Quo	Alt. 2: Shift October to Winter II	Alt. 3: Shift October to Winter II and 2 weeks in May to Winter I	Unspecified option
2	1	2 (one of these chose 3b)	3

Reasons cited in support of an alternative varied depending on their preferred alternative. The individuals in support of Status Quo (Alternative 1) were concerned over the stability of the market- wanting to maintain a high price under the current trip limits and quota periods- and whether changes in the quota periods may have negative impacts. Other comments in support of status quo cited concerns over the need to allow the stock to continue to rebuild and felt that if fishermen are not able to fill quotas currently, this may point to a broader issues with the population. The individual in favor of Alternative 2 was concerned about fishermen going after multiple species and current high trip limit may encourage more discarding. Additionally, the individuals focus for Alternative 2 was to allow a larger trip limit in October, which they felt would be benefitual to fishery by potentially reducing discarding at that point in the year. For those commenters in favor of Alternative 3, both indicated that this alternative gave them the best opportunity to catch their state quota in the summer period. Both commenters in favor of alternative 3 cited poor or reduced quotas for summer flounder as being why an increase in opportunity to fish for scup is needed.



March 28, 2017

Kirby Rootes-Murdy
Senior Fishery Management Plan Coordinator
1050 N. Highland Street
Suite A-N
Arlington, VA 22201

Dear Mr. Rootes-Murdy,

I am writing in regards to the call for public input on the management of commercial scup.

Presently, we at the Town Dock support “Status Quo”. We rely on the stability of this market and there is a chance that the influx of scup could impact the price, causing it to drop. Since we aren’t sure that the market can handle an increase without that negative consequence we don’t want to change anything at this time.

Thank you for the opportunity to comment.

Sincerely,
Katie Almeida
Fishery Policy Analyst

The Town Dock: P.O. Box 608; 45 State St Narragansett, RI 02882
PH: 401-789-2200 FAX: 401-782-4421
Website: www.towndock.com

From: Bonnie Brady [mailto:greenfluke@optonline.net]
Sent: Friday, March 31, 2017 4:22 PM
To: Comments <comments@asmfc.org>
Subject: Draft Addendum XXIX for scup

The Long Island Commercial Fishing Association supports Alternative 3, allowing for increased catch in the overall daily limit during the shortened summer period, adding 15 days to the Winter 1 period and the addition of the month of October to the Winter 2 period. We feel this is the best option to give us the opportunity to catch our quota, while giving fishermen the ability of turning regulatory discard into landings at a time when other fisheries, such as fluke, are being cut back drastically.

Thank you.

Bonnie Brady

Long Island Commercial Fishing Association

From: Greg DiDomenico [mailto:gregdi@voicenet.com]
Sent: Friday, March 31, 2017 4:02 PM
To: Kirby Rootes-Murdy <krootes-murdy@asmfc.org>
Subject: Garden State Seafood Comments on Addendum XXIX

Kirby…Please accept these brief comments.

I brought this issue 4 years ago during a Demersal Monitoring Committee meeting.
My request was to have the month of October in the Winter II scup season.
In the context of this addendum we are requesting:
Alternative 2: Move October to the Winter II period. Under this alternative the Summer period would be shortened by 31 days and the Winter II period would be extended by 31 days.
I opposed the May seasonal change during the AP webinar call and at the Board meeting in December.
It is my opinion that during that part of the year a vessel should not be given the chance to direct a 50k trip on a migrating scup stock where discards due to mixing of numerous other species would be probable.
In addition it was my intention to keep the quotas the same for the Summer period as it is the only portion of the quota that is allocated to the states.
At the time I brought this up it was my opinion that the October fishery needed a larger possession limit and that the October fishery would accommodate such a change, I still feel the same.
It was not my intention to create any other outcome but to have the regulations better reflect the seasonality of the fishery possible reduce discards.
I think Alternative 2 achieves that.
Thank you for your consideration of our comments.
Greg DiDomenico
Executive Director
Garden State Seafood Association

From: Hesse, Al [mailto:ahesse@kingkullen.com]
Sent: Monday, March 06, 2017 9:24 AM
To: Comments <comments@asmfc.org>
Subject: Scup regulations

Dear Sirs:
Since the purpose of the regulations is to keep the numbers of scup healthy and sustainable ,I see no reason to change the current regulations so the commercial fishery can maximize their quotas. If they are not able to fill the quota then the fish population has not sufficiently rebounded. It would seem to me that since your goal is to rebuild the stock and not maximize the commercial fisheries profits it makes no sense to change the regulations so more fish can be taken in the winter thus reducing the number of fish . Your initial reason for making the regulations was to increase the number of fish then let the numbers increase and if the quota starts to be filled up before the stop dates at that time change the dates. It makes no sense to lessen or change the regulations in a fishery that needs rebuilding to allow a greater catch unless your agenda is not to protect the fishery but maximize the commercial fisheries profits. PLEASE do what you started out to do rebuild the fishery first worry about the big businesses later.

The Fishery is more important than the Commercial interests , If we take care and rebuild the stocks then the Commercial fisherman will be taken care of as well. If we alter the plan to favor them we all lose.

Al Hesse b.s. biology, NY fisherman.

From: Chuck Etzel [mailto:chucketzel@yahoo.com]
Sent: Thursday, March 30, 2017 10:00 AM
To: Comments <comments@asmfc.org>
Subject: Comments regarding scup winter 1 2 season extension

To ASMFC,

I would support extending winter 1 and 2 as long as possible. Here non NY state we have extremely poor allocations of scup,sea bas, fluke, spiny dog , and bunker. Any effort to make things more coast wide would help with our poor allocations . I want to support option 3 b.

Thank you for your time ,

Charles Etzel

Sent from my iPhone

From: dannylester [mailto:dannylester@optonline.net]
Sent: Wednesday, March 29, 2017 5:13 PM
To: Comments <comments@asmfc.org>
Subject: Scup

I am writing in regards to say that i do not think the scup fishery should close at any time,especially in may. I am a pound trapper and that is when we catch the scup. Please take this under advisement. Thank you

From: nat miller [mailto:miller_nat@yahoo.com]
Sent: Friday, March 31, 2017 11:16 AM
To: Megan Ware <mware@asmfc.org>
Subject: O

Anything but option one. I am a full time inshore fisherman any I want no risk of closures it's not my fault they didn't land them this winter and should not be penalized when I catch them

Sent from my
iPad

Kirby Rootes-Murdy

From: Kirby Rootes-Murdy
Sent: Monday, April 24, 2017 3:17 PM
To: Kirby Rootes-Murdy
Subject: Scup meeting

-----Original Message-----
From: Corey Forrest [mailto:coreyb.forrest@gmail.com]
Sent: Tuesday, March 21, 2017 4:09 PM
To: Ballou, Robert (DEM) <robert.ballou@dem.ri.gov>
Subject: Scup meeting

Hi Robert,
I cannot attend the meeting tonight. I am not quite sure how this affects the floating fish traps but I wanted to state that we would not be in favor of anything that would be detrimental to our very short trap season. We are very much dependent on being allowed to bring in the volume of scup when they show, which is typically around May 1st. This really goes with any of the species. We need to be able to catch them when they are there.
Thanks,
Corey Wheeler Forrest

Fisherman, fisher dealer, owner
Tallman & Mack INC.
Point Trap Co.

Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201
703.842.0740 • 703.842.0741 (fax) • www.asmfc.org

MEMORANDUM

April 14, 2017

To: **Summer Flounder, Scup, and Black Sea Bass Management Board**

From: **Summer Flounder, Scup, and Black Sea Bass Technical Committee**

RE: **TC Review of Draft Addendum XXIX**

List of Participants

John Maniscalco (NY)
T.D. Middlesworth (NC)
Julia Beaty (MAFMC)
Brandon Muffley (MAFMC)
Katie May Laumann (VA)
Kirby Rootes-Murdy (ASMFC)
Jason McNamee (RI)
Rich Wong (DE)
Tiffany Vidal (MA)
Emily Gilbert (NMFS)
Kiley Dancy (MAFMC)

The following memo contains the Summer Flounder, Scup, and Black Sea Bass Technical Committee (TC) Review of Draft Addendum XXIX and the proposed alternatives.

Addendum XXIX

The Summer Flounder, Scup, and Black Sea Bass Board approved Draft Addendum XXIX for public comment at their Winter Meeting in February 2017. The draft addendum proposes alternatives to the start and end dates of the current three quota periods (Winter I, Summer, Winter II) that seek to increase the likelihood of the annual coastwide quota being harvested. Since 2011, commercial scup landings have been 20-47% below the commercial quota. Specifically, the proposed alternatives offer to either increase the length of Winter II period by including the month of October (currently included in the Summer period), or increase the length of both the Winter II period (by including October) and increase the Winter I period by two weeks. Both of these alternatives would reduce the length of the Summer period, while maintaining the current quota allocation to each of the periods; effectively increasing the time to achieve the Winter I and/or Winter II quotas while decreasing the time to achieve the Summer period quota. Again, the proposed alternatives are intended to allow higher possession limits for a longer period of time each year, thus increasing the likelihood that the commercial fishery would fully harvest the quota in the future.

The TC met via conference call on April 5th to review the draft addendum and provide comments for the Board's consideration. Below are summary points provided by the TC:

- TC members discussed comments provided at state hearings that they (TC members) presented at. Comments focused largely on market dynamics (supply, demand, and price) and considerations relative to current trip limits.

- The TC did not have any comments specific to the technical information and data used in development of draft addendum. The TC did not have any comments regarding the merits of proposed changes to the quota period start and end times included in the document.

- The TC discussed the potential biological impacts of shifting fishing effort during spring/summer months due to changes in quota period start and end dates. The TC pointed out that the spawning season for scup predominately takes place nearshore from May to August. One TC member said that larger individuals are typically the first to come inshore to spawn. The TC agreed that changes to the quota periods may not impact spawning activity and spawning stock biomass, especially given that fishing effort would still be limited by the quota period allocations and the annual commercial quota. For example, one TC member said that removals of scup would have similar impacts from a population dynamics perspective regardless of which time of year they occurred. Fishing effort changes due to changes in the coastwide quota may have more impacts to the resource than changes to the dates of the quota periods.

- In considering the broader questions of market demand, factors affecting price per pound, and the impacts of current trip limits, one TC member suggested that a socio-economic study should be conducted to better understand the impact of management measures on market demand for scup. The relationship between landings and price is complex and is influenced by many factors, including the frozen market which allows for a controlled release of product to the market. The group acknowledged that much is unknown or unclear in how changes to current federal and state trip limits would impact prices and demand for scup. The TC member pointed to ongoing research and study on Atlantic menhaden that is being supported by the Commission as similar approach that could be used to better understand the scup market.

- Lastly, the group discussed the upcoming stock assessment update for scup to be completed later this year and how its results could affect management. The alternatives considered through Addendum XXIX will have different impacts in years of lower biomass and lower quotas than in years of higher biomass and quotas. Information from recent state conducted YOY surveys on scup indicate continued high abundance in some regions of the coast, but it's unclear how this information may impact the projected spawning stock biomass coastwide and subsequent catch limits.

DRAFT

FRAMEWORK ADJUSTMENT

TO THE

SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS

FISHERY MANAGEMENT PLAN

Includes Environmental Assessment, Regulatory Impact Review, and Regulatory Flexibility Act Analysis

April 2017

Prepared by the
Mid-Atlantic Fishery Management Council
in cooperation with
the National Marine Fisheries Service

Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201
Dover, DE 19901
(302) 674-2331 tel.
(302) 674-5399 fax

National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930
(978) 281-9315 tel.
(978) 281-9135 fax

1. Executive Summary

This framework action considers modifications to the dates of the commercial scup quota periods. The action alternatives described in this document are intended to help enable the commercial fishery more efficiently meet, but not exceed, the annual commercial quota.

Current management measures for the scup commercial quota periods include allocations of the annual quota among three quota periods, period-specific possession limits, and other measures. These regulations were first implemented in 1997 to prevent the annual commercial quota from being fully harvested early in the year and to address potential issues regarding equitable access to the fishery. Larger vessels typically harvest scup offshore during the winter months and smaller vessels harvest scup inshore during the summer. Without a system of seasonal quota allocation, in years with low quotas, larger vessels could potentially harvest the full annual quota early in the year, leaving no quota for smaller vessels fishing inshore in the summer. The quota period measures are intended to reduce the likelihood of this occurring.

This framework adjustment was initiated in response to requests from commercial fishery advisors and includes three alternatives regarding the dates of the quota periods. Commercial landings would still be restricted to the seasonal and annual quotas under all alternatives. The quotas are based on the best scientific information available and are intended to prevent overfishing and maintain the rebuilt status of the scup stock. As such, all alternatives are expected to have positive impacts on the scup stock by continuing to prevent overfishing. Slight differences in seasonal fishing effort are expected under each alternative. Due to these slight differences, the expected impacts of each alternative on scup, non-target species, human communities, protected species, and habitat differ slightly. The expected impacts are described in detail in section 7.

Under alternative 1 (the no action alternative), all measures associated with the quota periods would remain unchanged. Alternative 1 is expected to have positive impacts on scup and non-target species (section 7.1.1), mixed (i.e. both positive and negative) socioeconomic impacts (section 7.2.1), slight negative impacts on protected species (section 7.3.1), and neutral impacts on physical habitat (section 7.4.1; Table 1).

Under alternative 2, October would become part of the Winter II quota period, as opposed to the Summer period under the no action alternative (alternative 1). Alternative 2 would result in an increased commercial possession limit during the month of October, compared to the no action alternative. Landings would still be restricted to the period quotas and the annual commercial quota. The annual quota is based on the best available science and is intended to prevent overfishing. As such, alternative 2 is expected to have positive impacts on scup and non-target species (section 7.1.2); however, because fishing effort during October is expected to increase slightly under alternative 2, these positive impacts are expected to be slightly lesser in magnitude than the positive impacts of the no action alternative (alternative 1). Due to the expected slight

increase in landings (and thus revenues), alternative 2 is expected to have slight positive socioeconomic impacts compared to the no action alternative (section 7.2.2). Due to the slight increase in fishing effort, it is expected to have slight negative impacts on protected species (section 7.3.2) and physical habitat (section 7.4.2; Table 1).

Alternative 3 includes three sub-alternatives. Under alternative 3.A, October would become part of the Winter II quota period (as opposed to the Summer period under the no action alternative; alternative 1) and May 1-15 would become part of the Winter I period (as opposed to the Summer period under the no action alternative). Under current regulations (50 CFR 648.123(a)(2)(iv)), in certain circumstances, landings during April 15-30 by state-only permit holders may be counted towards a state's Summer period allocation in years when the Winter I fishery closes before April 15. Under alternative 3.A, these regulations would remain unchanged. Alternatives 3.B and 3.C are identical to alternative 3.A, except in regard to these special quota counting procedures. Under alternative 3.B the dates of the quota periods would be modified as described for alternative 3.A and the quota counting procedures would be modified such that they could be used during up to four weeks prior to new the start of the Summer quota period (i.e. April 15-May 15, as opposed to April 15-30 under the no action alternative). Under alternative 3.C the quota period dates would be modified as previously described and the quota counting procedures would be modified such that they could be used during two weeks prior to the new start of the Summer quota period (i.e. May 1-15, as opposed to April 15-30 under the no action alternative). Alternative 3.C would also specify that these procedures could be used when the Winter I fishery closes prior to May 1 (rather than April 15 under current regulations).

Alternatives 3.A-3.C would result in an increased commercial scup possession limit during May 1-15 and during October, compared to the no action alternative (alternative 1). This is expected to lead to a slight increase in fishing effort for and landings of scup for six weeks each year. Landings would still be restricted to the quota period allocations and to the annual quota; therefore, alternatives 3.A-3.C are expected to have positive impacts on scup and non-target species (sections 7.1.3.1 - 7.1.3.3). Due to the expected slight increase in landings (and thus revenues), they are expected to have slight positive socioeconomic impacts (sections 0 - 7.2.3.3). Due to the slight increase in fishing effort, they are expected to have slight negative impacts on protected species (sections 7.3.3.1 - 7.3.3.3) and physical habitat (sections **Error! Reference source not found.** - 7.4.3.3; Table 1) due to the slightly increased potential for interactions with fishing gear.

When comparing across alternatives, alternative 1 is expected to have the most positive impacts on scup and non-target species, followed be alternatives 2, 3.A, 3.C, and 3.B. Alternative 3.C is expected to have the most positive socioeconomic impacts, followed by alternatives 3.A, 3.B, 2, and 1. Alternative 3.C has the highest potential for negative impacts to protected species and habitat, followed by alternatives 3.A, 3.B, 2, and 1.

[Statements about cumulative impacts and FONSI to be added after the Council selects preferred alternative(s)]

Table 1: Summary of the expected impacts of the alternatives on managed species, human communities, protected species, and physical habitat. "0" indicates a neutral impact. "+" indicates a positive impact and "-" indicates a negative impact. "Sl" indicates a slight impact. "Mixed" refers to both positive and negative impacts.

Alternative	**Winter I** (50,000 lb possession limit)	**Summer** (state-specific possession limits, all <10,000 lb)	**Winter II** (at least 12,000 lb possession limit, depending on Winter I quota rollover)	**Expected Impacts**			
				Scup & Non-Target Species	**Socio-economic**	**Protected Species**	**Habitat**
1: No Action	Jan. 1 – Apr. 30 (120 days)	May 1 – Oct. 31 (184 days)	Nov. 1 – Dec. 31 (61 days)	+	Mixed	Sl-	0
2: Move October to Winter II	Jan. 1 – Apr. 30 (120 days)	May 1 – Sept. 30 (153 days)	Oct. 1 – Dec. 31 (92 days)	+	Sl+	Sl-	Sl-
3.A: Move October to Winter II & May 1-15 to Winter I; No Changes to Quota Counting Procedures	Jan. 1 – May 15 (135 days)	May 16 – Sept. 30 (138 days)	Oct. 1 – Dec. 31 (92 days)	+	Sl+	Sl-	Sl-
3.B: Move October to Winter II & May 1-15 to Winter I; Modify End Dates of Special Quota Counting Procedures				+	Sl+	Sl-	Sl-
3.C: Move October to Winter II & May 1-15 to Winter I; Modify Beginning & End Dates of Special Quota Counting Procedures				+	Sl+	Sl-	Sl-

2. List of Acronyms and Abbreviations

ACL	Annual Catch Limit
AM	Accountability Measure
AP	Advisory Panel
ASMFC	Atlantic States Marine Fisheries Commission
Board	The ASMFC's Summer Flounder, Scup, and Black Sea Bass Management Board
CEQ	Council on Environmental Quality
Commission	Atlantic States Marine Fisheries Commission
Council	Mid-Atlantic Fishery Management Council
CPUE	Catch Per Unit Effort
CS	Consumer Surplus
DPSWG	Data Poor Stocks Working Group
EFH	Essential Fish Habitat
EMU	Ecological Marine Unit
EO	Executive Order
ESA	Endangered Species Act
F	Fishing Mortality
FMP	Fishery Management Plan
FONSI	Finding of No Significant Impact
GARFO	NMFS Greater Atlantic Regional Fisheries Office
MAFMC	Mid-Atlantic Fishery Management Council
MMPA	Marine Mammal Protection Act
MRIP	Marine Recreational Information Program
MSA	Magnuson-Stevens Fishery Conservation and Management Act
NEAMAP	Northeast Area Assessment and Monitoring Program
NEFOP	Northeast Fisheries Observer Program
NEFSC	Northeast Fisheries Science Center
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
PRA	Paperwork reduction Act
PS	Producer Surplus

RFA	Regulatory Flexibility Act
RI DEM	Rhode Island Department of Environmental Management
RIR	Regulatory Impact Review
SARC	Stock Assessment Review Committee
SAW	Stock Assessment Work Group
URI GSO	University of Rhode Island Graduate School of Oceanography
USFWS	United States Fish and Wildlife Service
VEC	Valued Ecosystem Component

3. Contents, Tables, and Figures

3.1. Contents

Contents

3.2. Tables

3.3. Figures

4. Introduction and Background

4.1. Goal of Framework

This framework action considers modifications to the dates of the commercial scup quota periods. The action alternatives described in this document are intended to help enable the commercial fishery more efficiently meet, but not exceed, the annual commercial quota.

4.2. Background and History of Scup Quota Periods

The Mid-Atlantic Fishery Management Council (the Council) and the Atlantic States Marine Fisheries Commission (the Commission) cooperatively manage commercial and recreational scup fisheries under the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). The management unit for the FMP includes scup in U.S. waters in the western Atlantic Ocean from Cape Hatteras, North Carolina northward. The Council develops recommendations for regulations in Federal waters. The National Marine Fisheries Service (NMFS) reviews these regulations and implements them if they are deemed to be consistent with FMP objectives and other statutory requirements, including the Magnuson-Stevens Fishery Conservation and Management Act (MSA). NMFS also serves as the Federal enforcement agency. The Commission works with member states to develop regulations for state waters.

Amendment 8 to the FMP was approved by NMFS in 1996 and established several coastwide management measures for the scup fishery. At the time, the scup stock was overexploited. Amendment 8 included several measures to rebuild the stock, including a coastwide commercial quota, which became effective on January 1, 1997. During development of amendment 8, the Council and Commission considered, but did not fully develop, a system of quota allocation and possession limits. They submitted amendment 8 to NMFS before fully developing these measures so the other measures in amendment 8 could be implemented as quickly as possible and the rebuilding program could begin. However, without trip limits and seasonal allocations, the annual quota could be fully harvested early in the year, which could have economic implications for the entire fishery and could lead to issues regarding equitable access to the fishery. Larger vessels tend to harvest scup offshore during the winter months and smaller vessels tend to harvest scup inshore during the summer. If larger vessels were to harvest the full annual quota early in the year, smaller vessels would not be able to harvest scup in the summer. To address this issue, the Council and Commission developed three seasonal quota periods, each allocated a percentage of the annual commercial quota and each with different possession limits. These measures were first implemented in 1997 through a regulatory amendment to the FMP (MAFMC 1996; 62 *Federal Register* 27978, May 22, 1997).

The Council and Commission have not modified the dates of the quota periods or the allocation percentages since they were first implemented. These measures include a Winter I period from January 1 through April 30, which is allocated 45.11% of the annual quota; a Summer period from May 1 through October 31, which is allocated 38.95% of the annual quota; and a Winter II quota period from November 1 through December 31, which is allocated 15.94% of the annual

commercial quota (Table 2). The Summer period quota is further divided into state shares (Table 3) which are managed by the Commission (ASMFC 2002).

Commercial landings data from 1983 through 1992 were used to define the dates and allocations for the quota periods, including the state allocations for the Summer period. These years were thought to best represent historical participation in the fishery and included years when scup were abundant (though they have become far more abundant since then; NEFSC 2015b) and available to both northern and southern states (MAFMC 1996). There was some concern that these data underestimated harvests from state waters with some gear types, especially in Massachusetts. To address this concern, the state summer shares were modified in 2002 through Addendum V to the Commission's FMP (ASMFC 2002).

The Council and Commission have modified the seasonal possession limits several times since they were first implemented. Current regulations include a 50,000 pound possession limit during Winter I. If 80% of the Winter I quota is harvested, the possession limit drops to 1,000 pounds for the remainder of the Winter I period. The initial Winter II possession limit is 12,000 pounds. If the Winter I quota is not fully harvested, unused quota may rollover to the Winter II period. If this occurs, NMFS may increase the Winter II possession limit by 1,500 pounds for every 500,000 pounds of quota transferred from Winter I. There are no Federal waters possession limits during the Summer period; however, various state-specific possession limits are enforced in state waters. These possession limits are all much lower than the Federal Winter I and Winter II possession limits (Table 4).

The Federal commercial scup fishery is closed coastwide when the allocation for a given quota period is landed. Any overages during a given quota period are subtracted from that period's allocation for the following year. If the Summer period quota is exceeded, the Commission subtracts overages from a future year's Summer period share for the states which had overages. If an individual state exceeds its Summer quota, but the overall Summer quota is not exceeded, deductions are not applied.

Framework Adjustment 3 to the FMP, implemented in 2003, resulted in new Federal regulations (50 CFR 648.123(a)(2)(iv)) which state: "During a fishing year in which the Winter I quota period is closed prior to April 15, a state may apply to the [NMFS] Regional Administrator for authorization to count scup landed for sale in that state from April 15 through April 30 by state-only permitted vessels fishing exclusively in waters under the jurisdiction of that state against the Summer period quota. Requests to the Regional Administrator to count scup landings in a state from April 15 through April 30 against the Summer period quota must be made by letter signed by the principal state official with marine fishery management responsibility and expertise, or his/her designee, and must be received by the Regional Administrator no later than April 15" (68 *Federal Register* 62251, November 3, 2003).

Scup are occasionally available in state waters prior to the beginning of the Summer period (i.e. May 1). If the Winter I quota were to be fully harvested before the end of the period, these

regulations would allow landings from state-only permit holders fishing in state waters during April 15-30 to count towards the Summer quota. Otherwise, landings during April 15-30 would count towards the Winter I quota and could result in a reduction in the Winter I quota in a following year, as required by accountability measures in the FMP. Federally-permitted vessels would be prohibited from landing scup during April 15-30, even if those scup were caught in state waters. These regulations were intended to increase the efficiency of the fishery, while still restricting landings to the Summer period quota (MAFMC 2003). Since Framework 3 was implemented in 2003, the Winter I period has not closed prematurely; thus, these special quota counting provisions have never been used.

The scup stock was declared rebuilt in 2009 based on the findings of a new stock assessment (DPSWG 2009). The commercial scup quota nearly doubled between 2010 and 2011 in response to this new assessment information. The commercial fishery has not exceeded the annual commercial quota or any of the period quotas since that time (Table 5, Figure 1). Prior to 2011, the Winter I quota was exceeded three times by an average of 30%, the Summer quota was exceeded five times by an average of 33%, and the Winter II quota was exceeded seven times by an average of 24% (Table 5, Figure 1).

Over 2011-2016 commercial landings were 20-47% below the commercial quota (Table 5). Some members of the Council and Commission's Summer Flounder, Scup, and Black Sea Bass Advisory Panels (APs) have argued that the restrictive possession limits during the Summer period (Table 4), compared to the Winter I and Winter II periods (Table 2), prevent fishermen from landing high volumes of scup when they are available. These restrictions limit the ability of the fishery to achieve the annual commercial quota and can thus result in foregone yield. The action alternatives described in the next section were suggested by AP members and would both increase the amount of time each year that the Winter I and/or Winter II possession limits are in effect.

Table 2: Commercial scup quota period dates, percentage of annual quota allocated, and Federal waters possession limits.

Quota Period	Dates	% of annual quota	Possession limit
Winter I	Jan 1–Apr 30	45.11%	50,000 pounds
Summer	May 1–Oct 31	38.95%	State-specific (Table 4)
Winter II	Nov 1–Dec 31	15.94%	At least 12,000 pounds, depending on amount of unused quota transferred from Winter I

Table 3: State allocations of commercial scup quota for the Summer quota period.

State	Share of summer quota
Maine	0.1210%
New Hampshire	0.0000%
Massachusetts	21.5853%
Rhode Island	56.1894%
Connecticut	3.1537%
New York	15.8232%
New Jersey	2.9164%
Delaware	0.0000%
Maryland	0.0119%
Virginia	0.1650%
North Carolina	0.0249%

Table 4: Commercial scup possession limits for trawl vessels in state waters during the Summer quota period (May 1 – October 31) in 2016.

State	Dates	Possession limit
Maine	May 1 – Oct 31	None
New Hampshire	May 1 – Oct 31	None (allocated no quota)
Massachusetts	May 1 – Oct 31	800 lb
Rhode Island	May 1 – Oct 31	10,000 lb per vessel per week
Connecticut	May 1 – July 2	1,500 lb
	July 3 – November 1	750 lb
New York	May 1 – Oct 31	800 lb
New Jersey	May 1 – Oct 31	5,000 lb
Delaware	May 1 – Oct 31	None (allocated no quota)
Maryland	May 1 – Oct 31	None
Virginia	May 1 – Oct 31	None
North Carolina	May 1 – Oct 31	None

Table 5: Scup commercial landings, commercial period and annual quotas, and quota overages/underages, 1997-2016. Quotas may differ from those published in the Federal Register by small amounts due to conversions between metric tons and pounds.

Year	Period	Landings	Quota	Overage/Underage
1997	Winter I	2,069,495	2,706,600	-24%
	Summer	2,185,950	2,337,000	-6%
	Winter II	567,461	956,400	-41%
	Total	4,822,906	6,000,000	-20%
1998	Winter I	1,869,765	2,061,527	-9%
	Summer	1,503,525	1,780,015	-16%
	Winter II	806,511	728,458	+11%
	Total	4,179,801	4,570,000	-9%
1999	Winter I	1,244,642	1,141,283	+9%
	Summer	1,336,056	985,435	+36%
	Winter II	737,527	403,282	+83%
	Total	3,318,225	2,530,000	+31%
2000	Winter I	1,384,252	789,425	+75%
	Summer	1,241,515	681,625	+82%
	Winter II	34,726	278,950	-88%
	Total	2,660,493	1,750,000	+52%
2001	Winter I	1,669,765	1,578,850	+6%
	Summer	1,619,940	1,363,250	+19%
	Winter II	777,791	557,900	+39%
	Total	4,067,496	3,500,000	+16%
2002	Winter I	3,200,636	3,270,475	-2%
	Summer	2,945,435	2,823,875	+4%
	Winter II	1,135,789	1,155,650	-2%
	Total	7,281,860	7,250,000	0%
2003	Winter I	3,737,539	5,458,310	-32%
	Summer	4,456,786	4,712,950	-5%
	Winter II	1,698,329	1,928,740	-12%
	Total	9,892,654	12,100,000	-18%
2004	Winter I	3,636,847	5,566,574	-35%
	Summer	4,062,107	4,806,430	-15%
	Winter II	1,618,150	1,966,996	-18%
	Total	9,317,104	12,340,000	-24%
2005	Winter I	3,684,690	5,516,953	-33%
	Summer	4,264,400	4,763,585	-10%
	Winter II	1,454,989	1,949,462	-25%
	Total	9,404,079	12,230,000	-23%
2006	Winter I	3,618,623	5,381,623	-33%
	Summer	3,220,954	4,646,735	-31%

Year	Period	Landings	Quota	Overage/Underage
	Winter II	2,115,468	1,901,642	+11%
	Total	8,955,045	11,930,000	-25%
2007	Winter I	3,400,939	4,014,790	-15%
	Summer	4,254,996	3,466,550	+23%
	Winter II	1,590,755	1,418,660	+12%
	Total	9,246,690	8,900,000	+4%
2008	Winter I	2,359,245	2,363,764	0%
	Summer	1,933,254	2,040,980	-5%
	Winter II	894,145	835,256	7%
	Total	5,186,644	5,240,000	-1%
2009	Winter I	3,774,596	3,775,707	0%
	Summer	3,072,660	3,260,115	-6%
	Winter II	1,356,972	1,334,178	2%
	Total	8,204,228	8,370,000	-2%
2010	Winter I	4,740,690	4,817,748	-2%
	Summer	4,175,259	4,159,860	0%
	Winter II	1,482,673	1,702,392	-13%
	Total	10,398,622	10,680,000	-3%
2011	Winter I	5,806,236	9,184,396	-37%
	Summer	6,642,296	7,930,220	-16%
	Winter II	2,583,514	3,245,384	-20%
	Total	15,032,046	20,360,000	-26%
2012	Winter I	5,435,576	12,590,201	-57%
	Summer	6,762,839	10,870,945	-38%
	Winter II	2,685,725	4,448,854	-40%
	Total	14,884,140	27,910,000	-47%
2013	Winter I	7,526,881	10,614,383	-29%
	Summer	8,215,177	9,164,935	-10%
	Winter II	2,131,981	3,750,682	-43%
	Total	17,874,039	23,530,000	-24%
2014	Winter I	6,238,586	9,901,645	-37%
	Summer	7,543,741	8,549,525	-12%
	Winter II	2,181,849	3,498,830	-38%
	Total	15,964,176	21,950,000	-27%
2015	Winter I	7,470,126	9,576,853	-22%
	Summer	7,414,606	8,269,085	-10%
	Winter II	2,145,234	3,498,830	-39%
	Total	17,029,966	21,950,000	-22%
2016 (landings are preliminary)	Winter I	6,091,427	9,234,017	-34%
	Summer	7,264,608	7,973,065	-9%
	Winter II	2,389,169	3,262,918	-27%
	Total	15,745,204	20,470,000	-23%

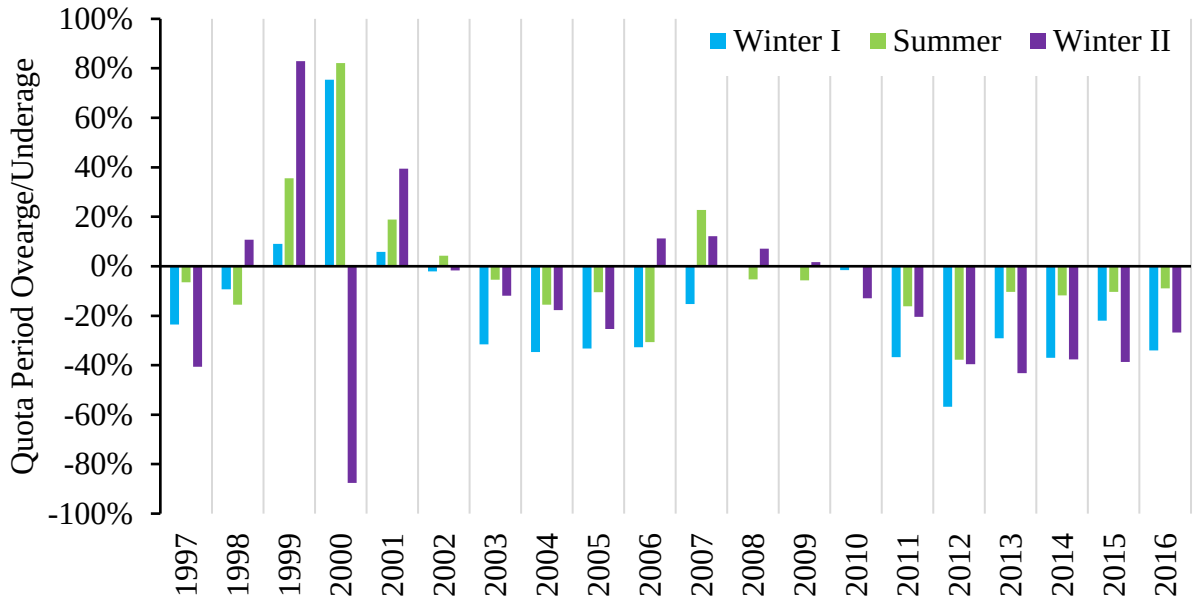


Figure 1: Commercial scup landings by quota period, shown as percent above (overage) or below (underage) the period quota, 1997-2016, Maine through North Carolina. 2016 landings are preliminary.

5. Management Alternatives

The following sections describe the management alternatives considered by the Council and the Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (the Board). The action alternatives (i.e. alternatives 2 and 3.A-3.C) include changes to the dates of the quota periods. These dates are included in both the Council and Commission FMPs; therefore, the Council and Board must select the same preferred alternatives for the change to be implemented. The Board is developing a complementary addendum (addendum XXIX) to implement any recommended changes.

The Council and Board did not consider alternatives relative to other aspects of the commercial quota periods such as the quota period allocations, possession limits, or quota rollover provisions. The action alternatives were initially recommended by commercial fishing industry advisors and are intended to help the fishery achieve (but not exceed) the annual commercial quota. No other changes were considered because the proposed changes to the dates of the quota periods were deemed sufficient to address this objective.

5.1. Alternative 1: No Action

Under alternative 1, the Council and Board would take no action and all measures associated with the commercial scup quota periods would remain unchanged. These measures are described in section 0.

5.2. Alternative 2: Move October to the Winter II Quota Period

Under alternative 2, October would become part of the Winter II quota period. The Summer period would last from May 1 – September 30 and would be 31 days shorter than under the no action alternative (alternative 1). The Winter II period would last from October 1 through December 31 and would be 31 days longer than under the no action alternative. The allocations of quota among the periods, the quota rollover provisions, the possession limits, and all other measures associated with the quota periods would remain unchanged (Table 2 - Table 4). The dates of the Winter I period would remain unchanged.

This alternative was proposed by AP members. They recommended this change because it would increase the possession limit during the month of October (Table 2 and Table 4). They argued that this change would lead to increased landings and would help the fishery to reach the annual commercial quota. As previously stated, over 2011-2016 commercial landings were 20-47% below the commercial quota (Table 5).

5.3. Alternative 3: Move May 1-15 to the Winter I Quota Period and Move October to the Winter II Quota Period

Alternative 3 contains three sub-alternatives (i.e. alternatives 3.A - 3.C), which are described in the following sections.

5.3.1. Alternative 3.A: Move May 1-15 to the Winter I Quota Period, Move October to the Winter II Quota Period, and Take No Action on Winter I and Summer Quota Counting Procedures

Under alternative 3.A, May 1-15 would become part of the Winter I quota period and October would become part of the Winter II period. The Winter I period would thus last from January 1 through May 15 and would be 15 days longer than under the no action alternative (alternative 1). The Summer period would last from May 16 through September 30 and would be 46 days shorter than under the no action alternative. The Winter II period would last from October 1 through December 31 and would be 31 days longer than under the no action alternative.

Like alternative 2, this modification was proposed by AP members. They recommended this change because it would increase the possession limit for six weeks out of the year (Table 2 and Table 4). They argued that this change would lead to increased landings and would help the fishery to reach the annual commercial quota. As previously stated, over 2011-2016 commercial landings were 20-47% below the commercial quota (Table 5).

Additionally, under alternative 3.A, the regulations which allow for landings by state-only permit holders during April 15-30 to count towards the Summer quota in certain circumstances would remain unchanged (described in more detail in section 4.2 and 50 CFR 648.123(a)(2)(iv)). This could result in circumstances in which the Winter I fishery could close by April 15 and state-permitted vessels could count landings during April 15-30 towards the Summer period quota.

The commercial fishery would then close from May 1-15 for all permit holders (state and Federal) and would resume on May 16 (the new start of the Summer period under this alternative).

5.3.2. Alternative 3.B: Move May 1-15 to the Winter I Quota Period, Move October to the Winter II Quota Period, and Modify the End Dates of the Winter I and Summer Quota Counting Procedures

Under alternative 3.B, the dates of the three quota periods would be modified as described for alternative 3.A and the regulations at 50 CFR 648.123(a)(2)(iv) (described in section 4.2) would be modified such that, in years when the Winter I period closes prior to April 15, landings by state-only permit holders fishing in state waters during April 15 – May 15 (rather than April 15–30 as in current regulations) could count towards the Summer period quota. This would increase the length of the period for this special quota counting procedure by two weeks. As stated in current regulations, states would need to submit a written request for use of this provision to the NMFS regional administrator prior to April 15. Thus, if the Winter I fishery were to close after April 15, but prior to May 16 (the new start of the Summer period under this alternative), this provision could not be used.

5.3.3. Alternative 3.C: Move May 1-15 to the Winter I Quota Period, Move October to the Winter II Quota Period, and Modify the Beginning and End Dates of the Winter I and Summer Quota Counting Procedures

Under alternative 3.C, the dates of the three quota periods would be modified as described in section 5.3.1 and the regulations at 50 CFR 648.123(a)(2)(iv) (described in section 4.2) would be modified such that in years when the Winter I period closes prior to May 1, landings by state-only permit holders fishing in state waters during May 1-15 (rather than April 15–30 under current regulations) could count towards the Summer period quota. The regulations would also be modified such that states would have to request these special provisions by May 1, as opposed to April 15 under current regulations. If the Winter I fishery were to close after May 1, but prior to May 16 (the new start of the Summer period under this alternative), then this provision could not be used.

6. Description of the Affected Environment

The affected environment consists of those physical, biological, and human components of the environment expected to experience impacts if any of the actions considered through this framework adjustment were to be implemented. This document focuses on four aspects of the affected environment, which are defined as valued ecosystem components (VECs).

The VECs include:

- Scup and non-target species caught in scup fisheries
- Human communities

- Protected species
- Physical habitat

The following sections describe the recent condition of the VECs.

6.1. Scup and Non-Target Species

6.1.1. Scup

Scup are a schooling, demersal (i.e. bottom-dwelling) species. They are found in a variety of habitats in the Mid-Atlantic. Essential fish habitat (EFH) for scup includes demersal waters, areas with sandy or muddy bottoms, mussel beds, and sea grass beds from the Gulf of Maine through Cape Hatteras, North Carolina. Scup undertake extensive seasonal migrations between coastal and offshore waters. They are mostly found in estuaries and coastal waters during the spring and summer. Larger individuals tend to arrive in inshore areas in the spring before smaller individuals. They move offshore and to the south, to outer continental shelf waters south of New Jersey in the fall and winter (Steimle et al. 1999, NEFSC 2015b).

The distribution of scup catch in the spring and fall NEFSC bottom trawl surveys illustrates the seasonal movements of scup (Figure 2 and Figure 3). During 2011-2015, the spring survey mostly took place during March - May. Average bottom temperature at all survey stations was about 7°C and scup were mostly caught offshore (Figure 2). The fall survey mostly took place during September – November. Average bottom temperature at all survey stations was about 10°C and scup tended to be caught much closer to shore than during the spring survey (Figure 3).

The alternatives considered in this document propose changes to the dates of the commercial scup quota periods during the months of October and/or May 1-15 (section 5). Several fisheries-independent trawl surveys were examined in more detail to assess the distribution of scup during these times of year.[1] The northeast area assessment and monitoring program (NEAMAP,) Rhode Island Department of Environmental Management (RI DEM), University of Rhode Island Graduate School of Oceanography (URI GSO), and Massachusetts Department of Marine Fisheries (MA DMF) surveys suggest that adult scup[2] are present both in state and Federal waters during May 1-15 (Figure 4 - Figure 10). The NEAMAP and NEFSC trawl surveys indicate that adult scup are present in both state and Federal waters during October. The RI

[1] Scup catch during May 1-15 and October in some trawl surveys are not summarized in this document because those surveys either did not operate during May or October (i.e. MA DMF fall survey, Chesapeake Bay Multispecies Monitoring and Assessment Program [ChesMMAP] survey in October), caught very few or no scup during those months (i.e. NEFSC spring survey during May, New Jersey's Delaware Bay trawl survey), or only caught juvenile scup during those months (i.e. state of Delaware trawl survey, ChesMMAP survey in May).

[2] Adult scup were defined based on an average weight per scup per survey tow of at least 0.15 kg. This value is based on a length of 9-inches total length, which is the length at which nearly all scup are sexually mature (NEFSC 2015b) and is also the minimum size for retention in the commercial fishery. Total length was converted to fork length using the relationship described in Hamer (1979) and converted to kilograms using the length/weight relationship described in Morse (1978).

DEM, URI GSO, and New Jersey Ocean Trawl surveys indicate that scup are present in both state and Federal waters during October, but that most are juveniles (Figure 11 - Figure 20).

Scup spawn once annually over weedy or sandy areas, mostly off southern New England. Spawning takes place from May through August and usually peaks in June and July (Steimle et al. 1999). About 50% of scup are sexually mature at two years of age and about 17 cm (7 inches) total length. They reach a maximum age of at least 14 years; however, few scup older than age 7 are caught in the Mid-Atlantic (DPSWG 2009, NEFSC 2015b).

Adult scup are benthic feeders. They consume a variety of prey, including small crustaceans, polychaetes, mollusks, small squid, vegetable detritus, insect larvae, hydroids, sand dollars, and small fish. Scup are prey for several predators, including sharks, skates, silver hake, bluefish, summer flounder, black sea bass, weakfish, lizardfish, king mackerel, and monkfish (Steimle et al. 1999).

The Council managed scup under a formal rebuilding plan from 2005 through 2009. NMFS declared the scup stock rebuilt in 2009 based on the findings of the Data Poor Stocks Working Group (DPSWG 2009).

The most recent scup benchmark stock assessment took place in 2015 and found that scup were not overfished and overfishing was not occurring in 2014. Spawning stock biomass was estimated to be about 210% of the target biomass. Fishing mortality in 2014 was estimated to be about 57% of the overfishing threshold (NEFSC 2015b).

A data update with information on scup fishery catch, landings, and discards, as well as NEFSC and state survey catches through 2015 indicated that scup biomass continued to be high, relative exploitation ratios remain low, and the 2015 year class appears to be large (NEFSC 2016a).

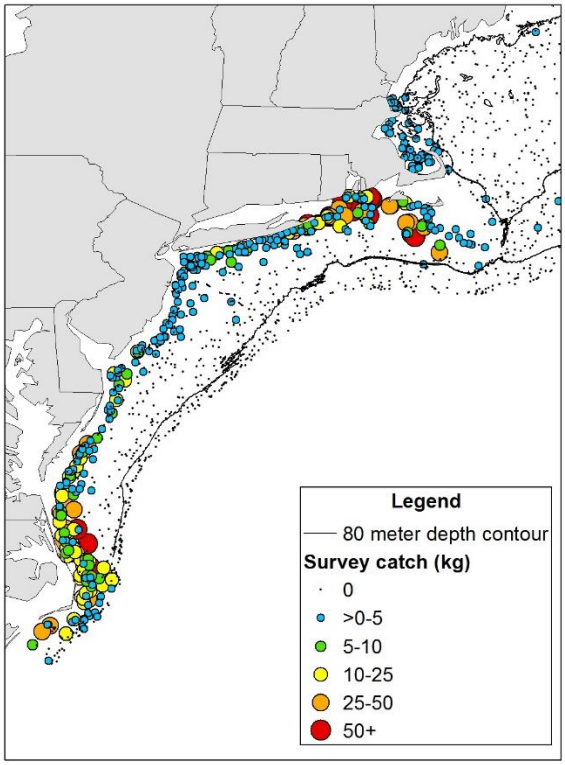
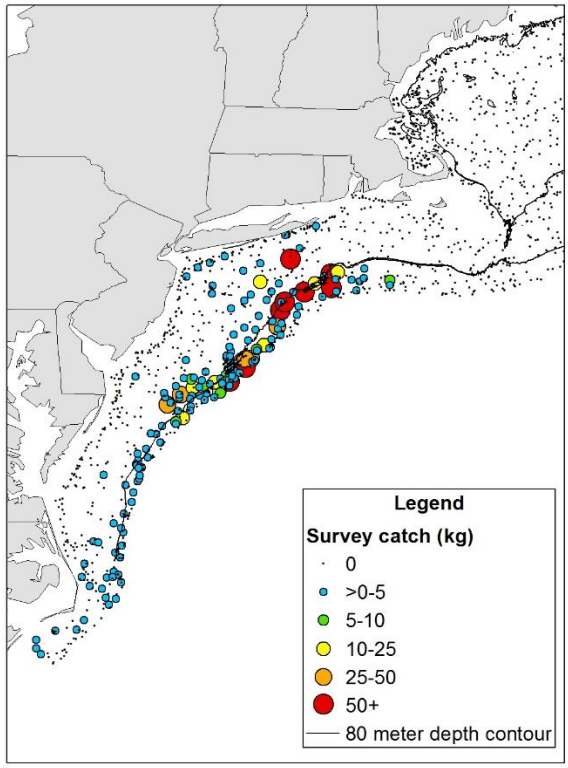


Figure 2: Scup catch in the NEFSC spring bottom trawl survey, 2011-2015.



3 Figure 3: Scup catch in the NEFSC fall bottom trawl survey, 2011-2015.

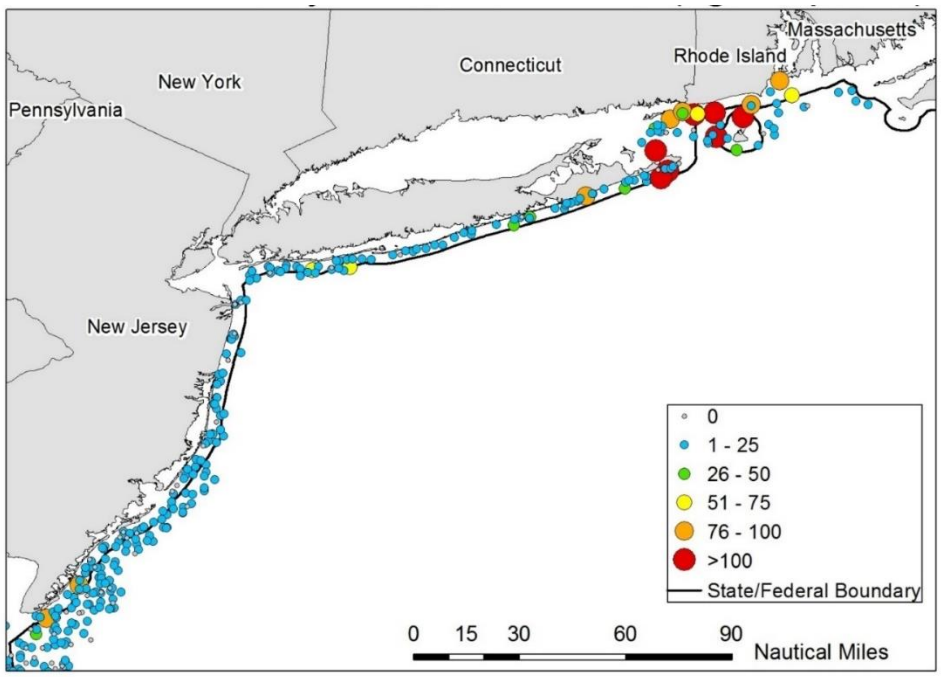


Figure 4: Scup catch per tow (in kg), May 1-15, 2011-2016, in the NEAMAP trawl survey off the states of Massachusetts through New Jersey.

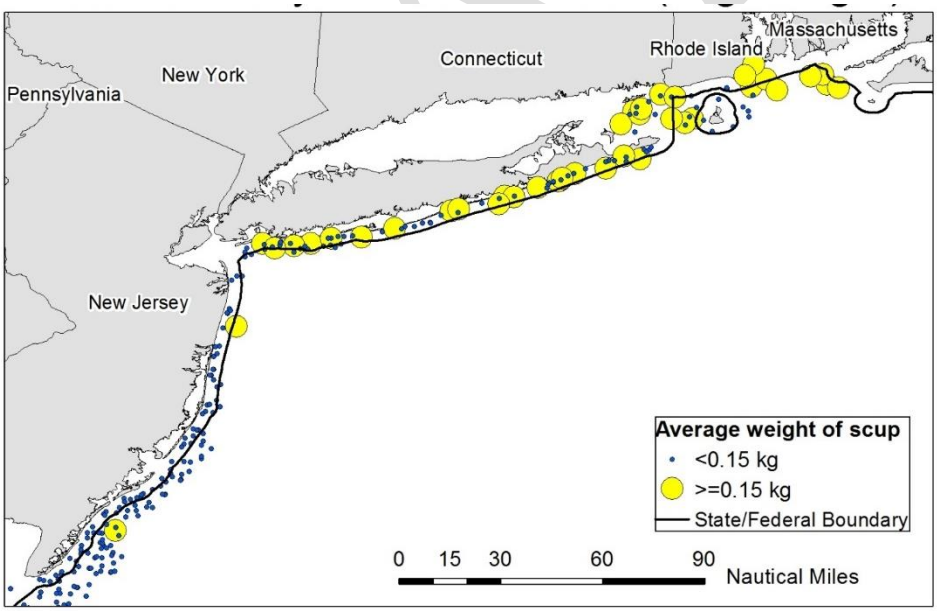


Figure 5: Average weight per scup in NEAMAP tows from Massachusetts through New Jersey, May 1-15, 2011-2016. Average weights are shown as those less than 0.15 kg and those greater than or equal to 0.15 kg, which is approximately the weight of a scup that has reached the commercial minimum size of nine inches total length (based on Morse 1978 and Hamer 1979).

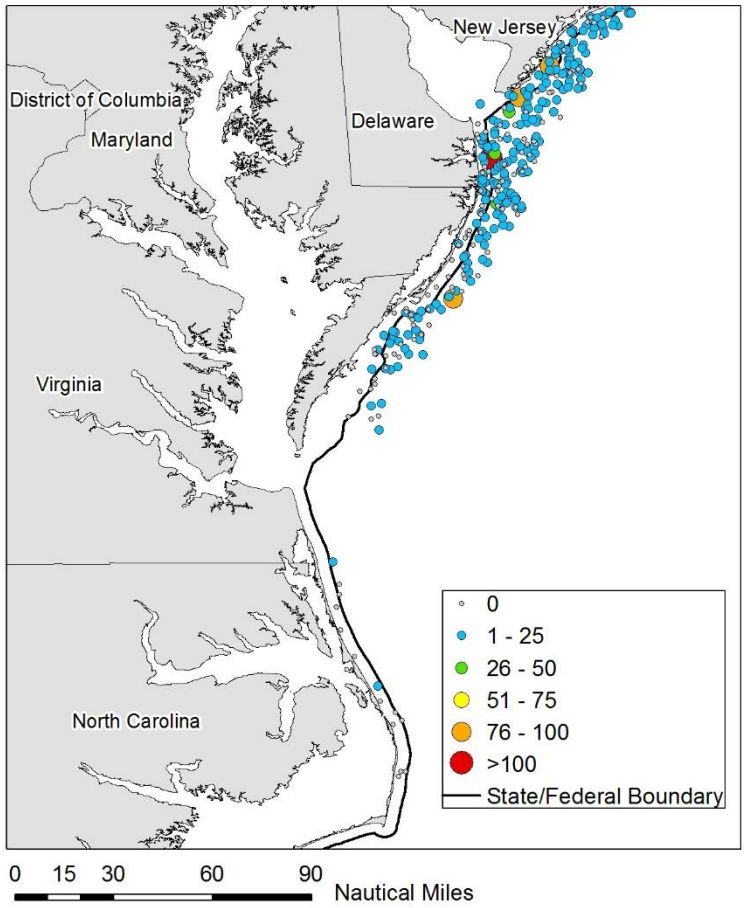


Figure 6: Scup catch per tow (in kg), May 1-15, 2011-2016, in the NEAMAP trawl survey off the states of Delaware through North Carolina. Average weight per scup is not shown in a separate figure as all average weights were below 0.15 kg, which is approximately the weight of a scup that has reached the commercial minimum size of nine inches total length (based on Morse 1978 and Hamer 1979).

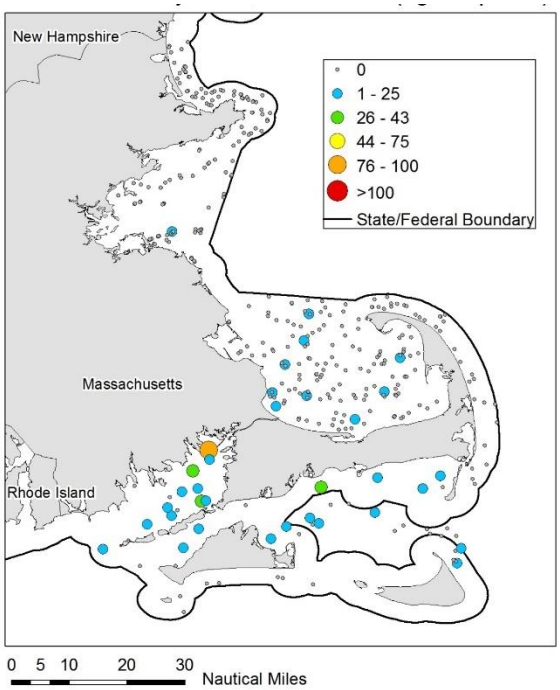


Figure 7: Scup catch per tow (in kg) in the MA DMF spring trawl survey, May 1 – 15, 2011-2016.

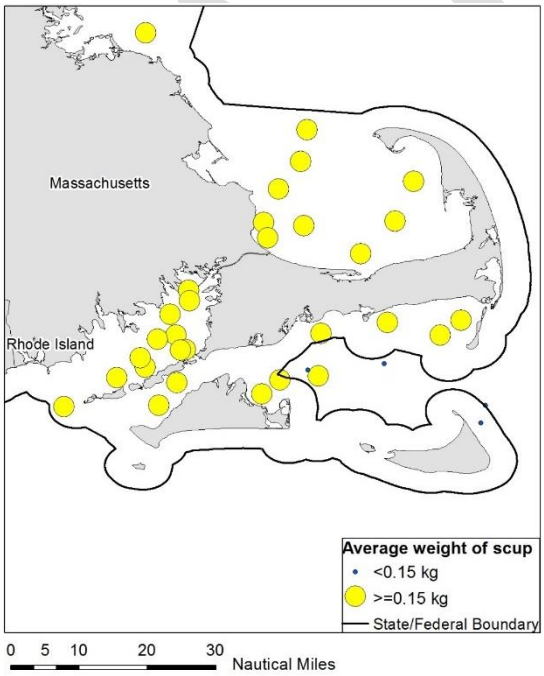


Figure 8: Average weight per scup in the MA DMF spring trawl survey, May 1 – 15, 2011-2016. Average weights are shown as those less than 0.15 kg and those greater than or equal to 0.15 kg, which is approximately the weight of a scup that has reached the commercial minimum size of nine inches total length (based on Morse 1978 and Hamer 1979).

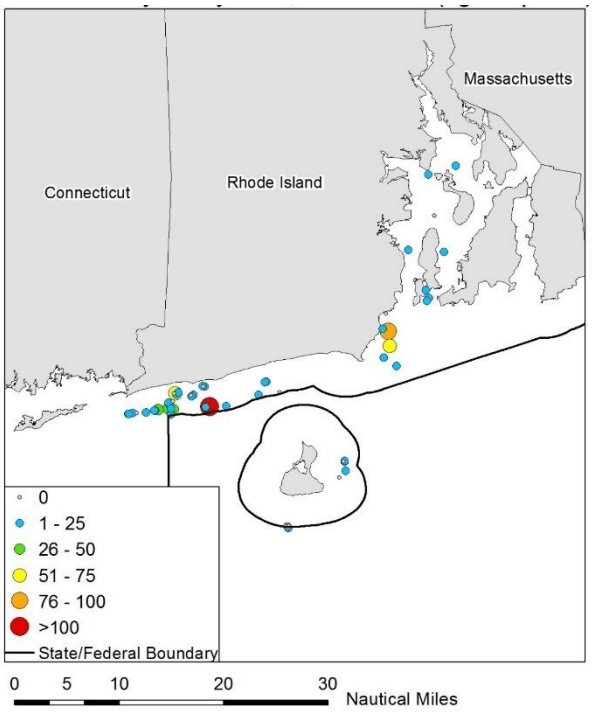


Figure 9: Scup catch per tow (in kg) in the RI DEM coastal fishery resource assessment trawl survey, May 1-15, 2011-2016.

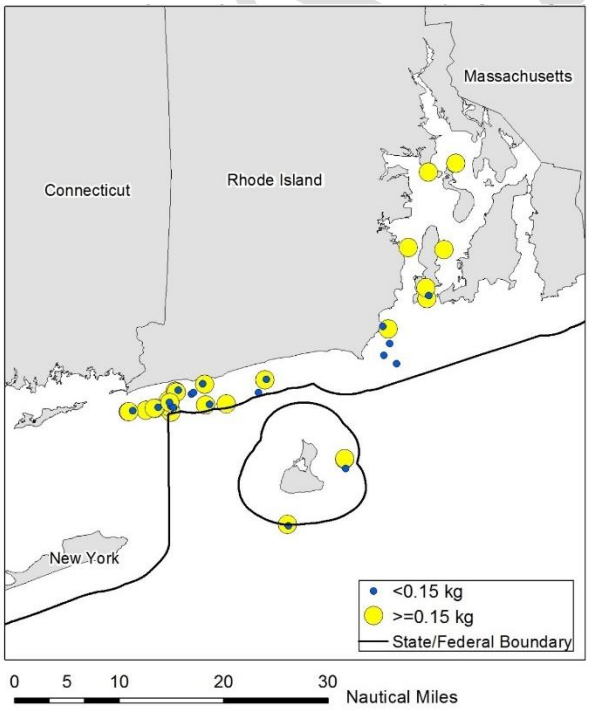


Figure 10: Average weight per scup in the RI DEM coastal fishery resource assessment trawl survey, May 1-15, 2011-2016. Average weights are shown as those less than 0.15 kg and those greater than or equal to 0.15 kg, which is approximately the weight of a scup that has reached the commercial minimum size of nine inches total length (based on Morse 1978 and Hamer 1979).

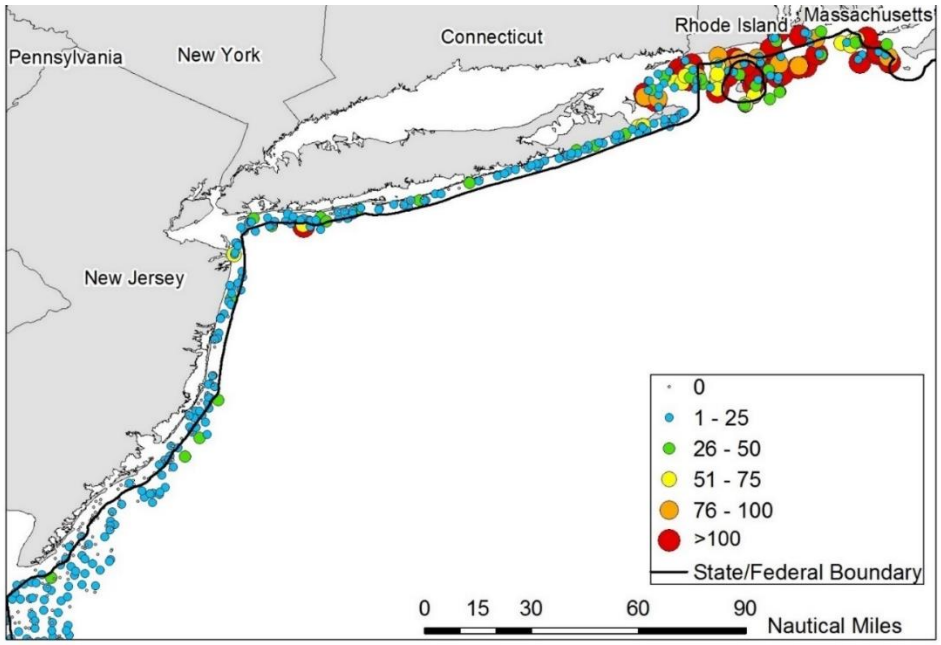


Figure 11: Scup catch per tow (in kg) in October, 2011-2016, in the NEAMAP trawl survey off the states of Massachusetts through New Jersey.

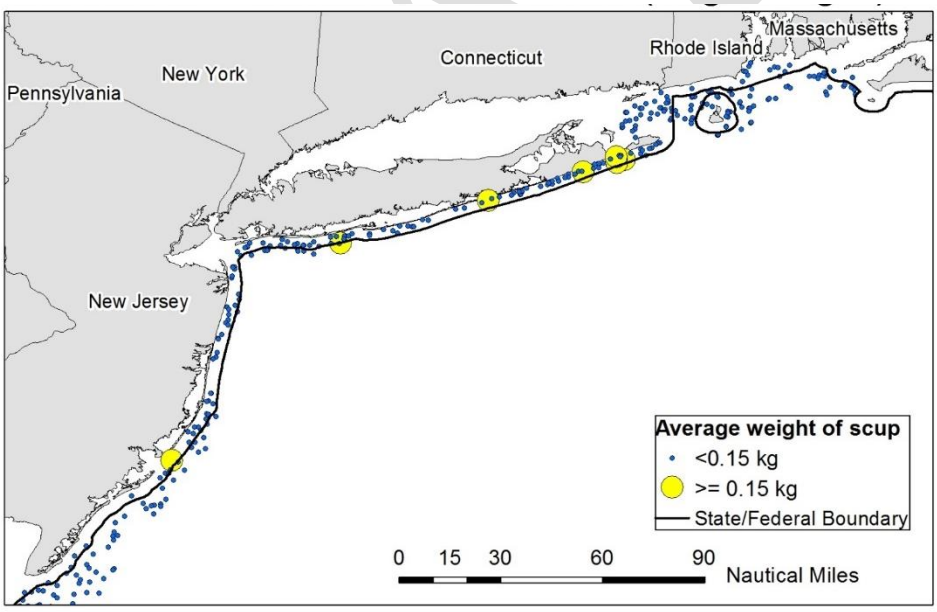


Figure 12: Average weight per scup in NEAMAP tows from Massachusetts through New Jersey, October, 2011-2016. Average weights are shown as those less than 0.15 kg and those greater than or equal to 0.15 kg, which is approximately the weight of a scup that has reached the commercial minimum size of nine inches total length (based on Morse 1978 and Hamer 1979).

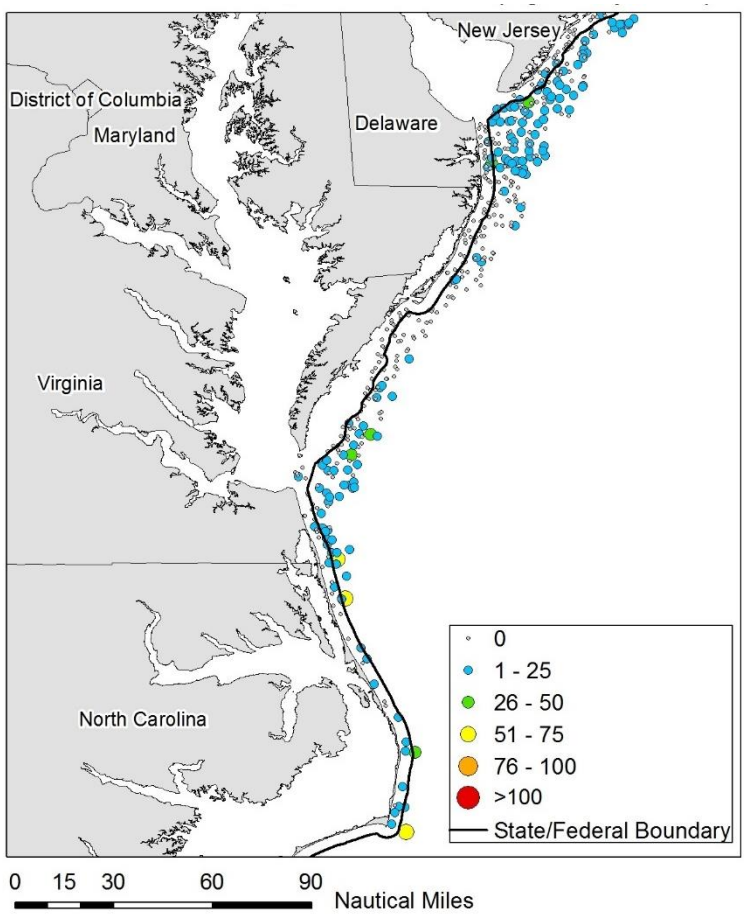


Figure 13: Scup catch per tow (in kg) in October, 2011-2016, in the NEAMAP trawl survey off the states of Delaware through North Carolina. Average weight per scup is not shown in a separate figure as all average weights were below 0.15 kg, which is approximately the weight of a scup that has reached the commercial minimum size of nine inches total length (based on Morse 1978 and Hamer 1979).

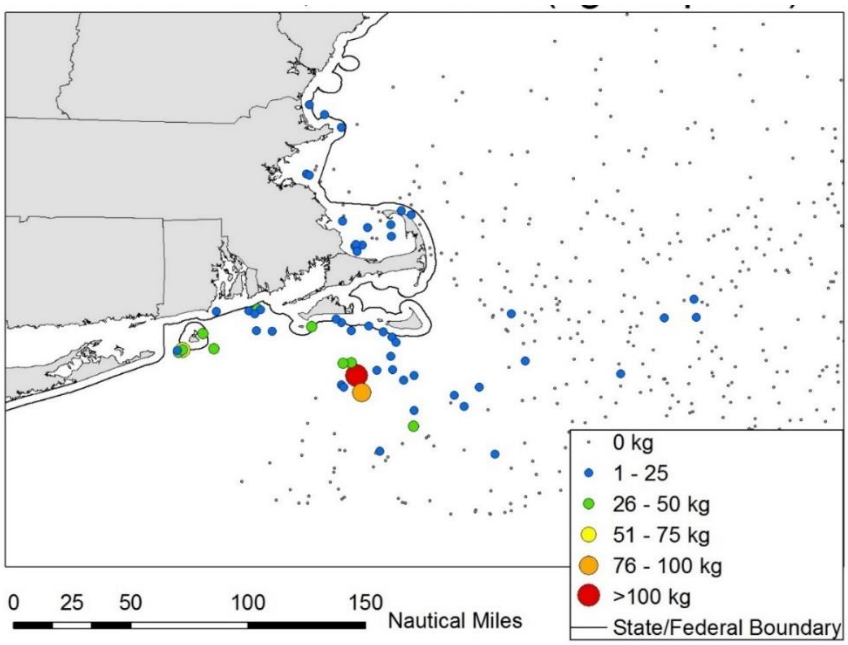


Figure 14: Scup catch per tow (in kg) in October, 2011-2015, in the NEFSC fall bottom trawl survey.

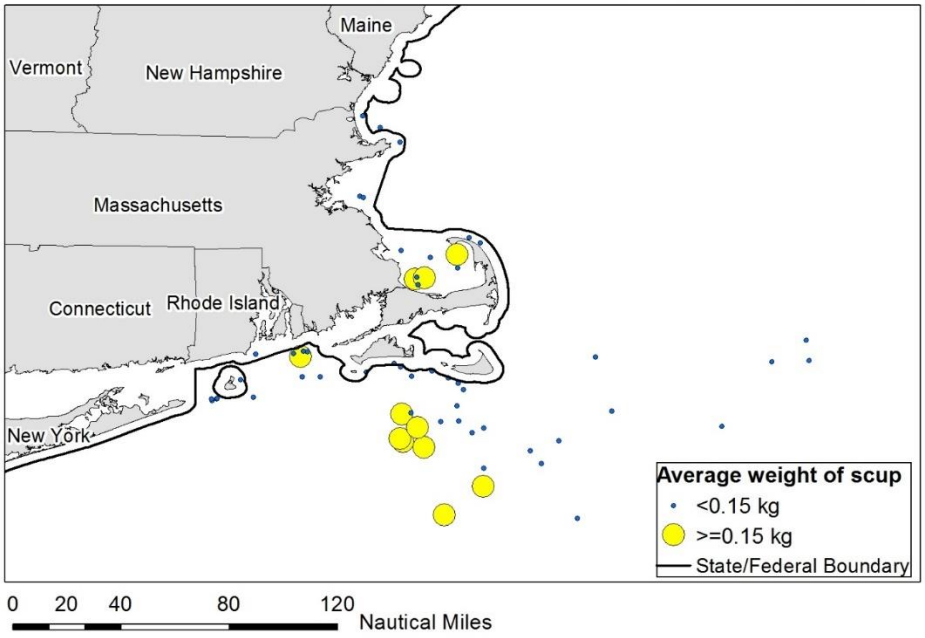


Figure 15: Average weight per scup in NEFSC fall bottom trawl survey tows, October, 2011-2015. Average weights are shown as those less than 0.15 kg and those greater than or equal to 0.15 kg, which is approximately the weight of a scup that has reached the commercial minimum size of nine inches total length (based on Morse 1978 and Hamer 1979).

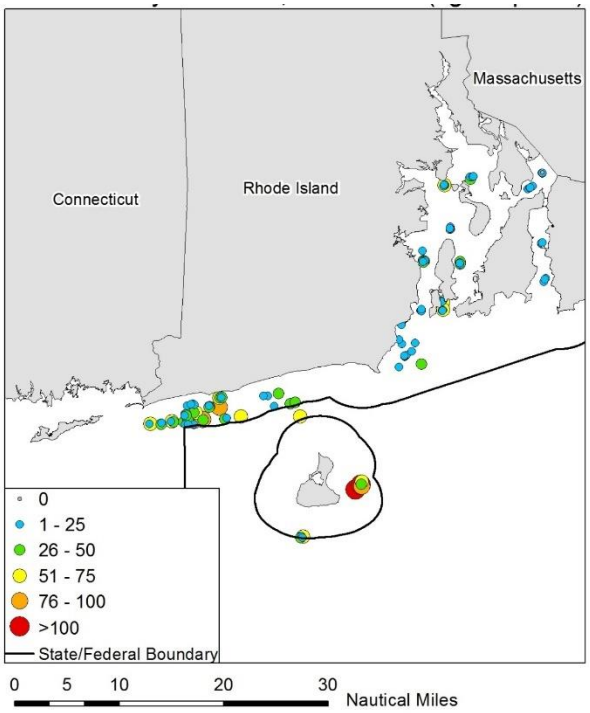


Figure 16: Scup catch per tow (in kg) in the RI DEM coastal fishery resource assessment trawl survey, during October, 2011-2016.

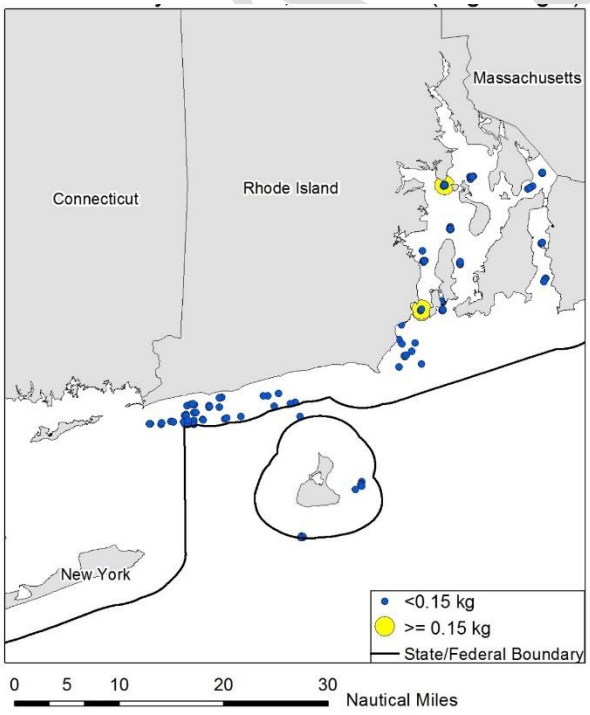


Figure 17: Average weight per scup in the RI DEM coastal fishery resource assessment trawl survey, October, 2011-2016. Average weights are shown as those less than 0.15 kg and those greater than or equal to 0.15 kg, which is approximately the weight of a scup that has reached the commercial minimum size of nine inches total length (based on Morse 1978 and Hamer 1979).

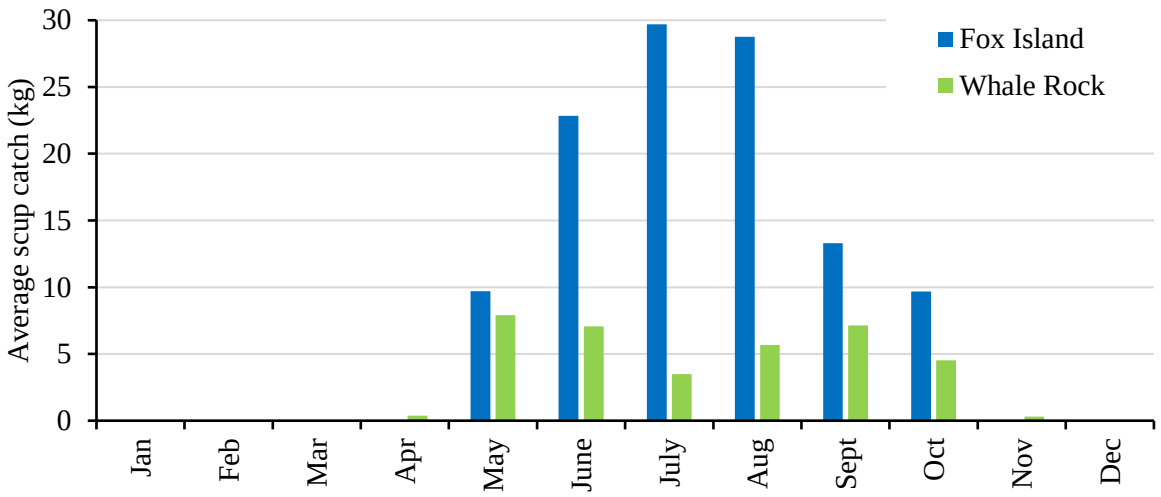


Figure 18: Average scup catch (in kg) by month in the URI GSO Narragansett Bay fish trawl survey, 2011-2015.

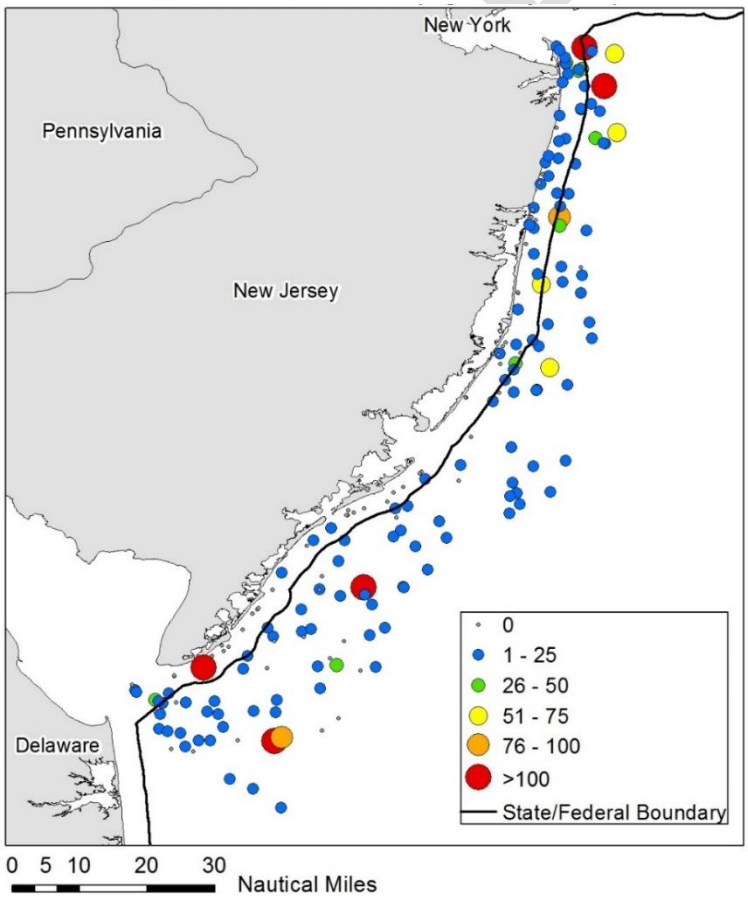


Figure 19: Scup catch per tow (in kg) in October, 2011-2015, in the New Jersey Ocean Trawl Survey.

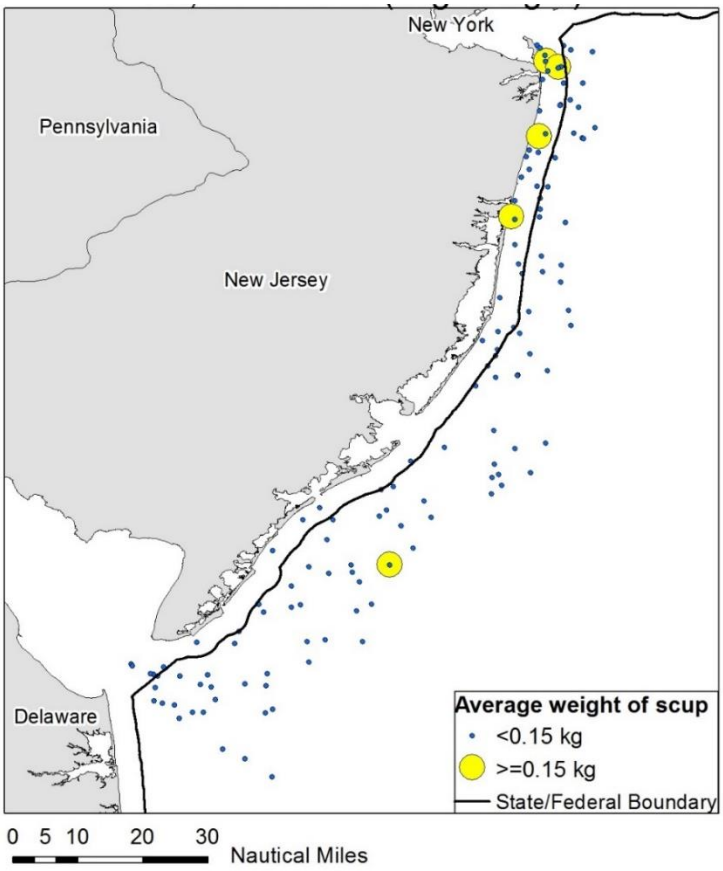


Figure 20: Average weight of scup caught in in the New Jersey Ocean Trawl Survey, October, 2011-2015. Average weights are shown as those less than 0.15 kg and those greater than or equal to 0.15 kg, which is approximately the weight of a scup that has reached the commercial minimum size of nine inches total length (based on Morse 1978 and Hamer 1979).

6.1.2. Non-Target Species

Non-target species are those species caught incidentally while targeting other species. Some non-target species are occasionally retained, others are commonly discarded.

Northeast Fisheries Observer Program (NEFOP) data from 2011-2015 indicate that spiny dogfish, little skate, black sea bass, summer flounder, longfin squid, butterfish, northern sea robin, winter skate, striped sea robin, and silver hake were the most commonly caught species on trips for which scup made up at least 75% of the landings (by weight; a proxy for directed scup trips). All these species, except northern and striped sea robins, are managed by the Mid-Atlantic or New England Fishery Management Councils. Northern and striped sea robins are not managed.

Management measures for the managed species include accountability measures (AMs) which address overages in annual catch limits (ACLs) through reductions in landings limits in following years. AMs for all these species, except *Illex* squid, take discards into account. These measures help to mitigate negative impacts from discards in the scup fishery, and other fisheries.

According to the most recent stock assessment information, spiny dogfish (NEFSC 2015a), little skate (NEFSC 2015c), black sea bass (NEFSC 2016c), butterfish (NEFSC 2014), and silver hake (NEFSC 2011) are not overfished and overfishing is not occurring. Overfishing is occurring for summer flounder (NEFSC 2016b) and winter skate (NEFSC 2015c), though neither stock is currently overfished. The overfishing status of longfin squid is unknown; however, the stock is not overfished and it appears to be lightly exploited (NEFSC 2010). Northern and striped sea robins have not been assessed, therefore their overfished and overfishing status is unknown.

6.2. Human Communities

Scup are commercially harvested year-round. The winter commercial fishery tends to occur offshore and the summer fishery occurs closer inshore, following seasonal patterns of scup movement (section 6.1.1). During the summer months, a greater number of vessels tend to land scup and those vessels tend to be smaller than during the winter months (Figure 21 and Figure 22). A moratorium permit is required to commercially harvest scup in Federal waters. In 2015, 650 vessels held scup moratorium permits.

During 2011-2015, most scup landed in commercial fisheries from Maine through North Carolina were caught with bottom otter trawls. Smaller amounts were caught with hand lines, pots/traps, pound nets, floating traps, sink gill nets, and dredges. A greater variety of gear types were used during the summer than during the winter (Figure 23). Bottom otter trawls accounted for at least 98% of the landings during the Winter I and Winter II periods, but only about 56% of landings during the Summer period during 2011-2015. Other gear types, such as hand lines, pots/traps, pound nets, and floating traps were more commonly used in the summer (Figure 23). The trends shown in Figure 23 were not consistent across every state. Commercial scup landings in Massachusetts, Connecticut, Rhode Island, and New York showed a similar pattern to that shown in Figure 23 (i.e. landings from a variety of gears in the summer and mostly from bottom trawls in the winter). Commercial landings in New Jersey, Maryland, Virginia, and North Carolina were predominantly from bottom trawl gear year-round.[3]

Over 2011-2015, average commercial scup landings per month were highest during April (Winter I, when a 30,000-50,000 pound possession limit was in effect, depending on the year) and lowest during July (Summer, when much lower possession limits were in effect [Table 4]). Average landings per month were about 1.62 million pounds during the Winter I quota period (January – April), about 1.22 million pounds during the Summer period (May – October), and about 1.17 million pounds during the Winter II period (November-December; Figure 24).

[3] Gear types by quota period by state cannot be quantitatively summarized in a meaningful way due to the prevalence of confidential data representing fewer than three dealers and/or permit holders.

Many factors influence the price of scup. Price and landings are not directly correlated; however, in general, ex-vessel price tends to be lower when landings are higher (Figure 24 and Figure 25). On average, during 2011-2015, price was highest in July and December ($0.83 per pound) and lowest in May ($0.47 per pound; Figure 25).

At least 100,000 pounds of scup were landed at each of 16 ports in seven states in 2015. The ports with the highest commercial scup landings were Point Judith, Rhode Island; Montauk, New York; Point Pleasant, New Jersey; New Bedford, Massachusetts, and Little Compton, Connecticut. Table 6 shows average commercial scup landings by month by state over 2011-2015 as shown in commercial dealer data.

According to estimates from the Marine Recreational Information Program (MRIP), recreational fishermen from Maine through North Carolina landed an estimated 4.62 million pounds of scup in 2015 and took an estimated 461,840 trips for which scup was the primary target. An estimated 98% of recreational scup harvest occurred in state waters and 2% occurred in Federal waters.[4] In 2015, 717 vessels held Federal party/charter permits for scup. Over 2013-2015, about one third of the recreational scup landings occurred in Massachusetts and an additional third occurred in New York. Rhode Island and Connecticut also had notable recreational scup landings. Other states accounted for 1% or less of the annual recreational landings. Across all states, recreational landings were approximately evenly divided between waves 3 (May-June), 4 (July-August), and 5 (September-October; Table 7).

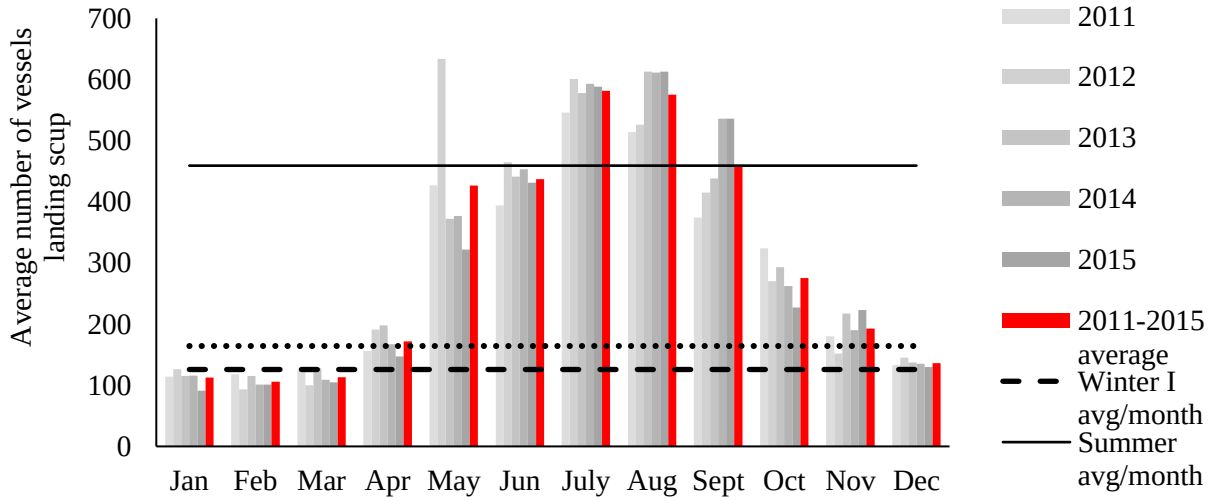


Figure 21: Number of commercial vessels which landed scup per month, 2011-2015 shown with average number of vessels per month during the Winter I (January – April), Summer (May-October), and Winter II (November and December) quota periods. Number of vessels was determined using a combination of permit number and hull number, as shown in dealer data. Vessels with an unknown permit number and an unknown hull number are not shown.

[4] MRIP estimates downloaded January 11, 2017.

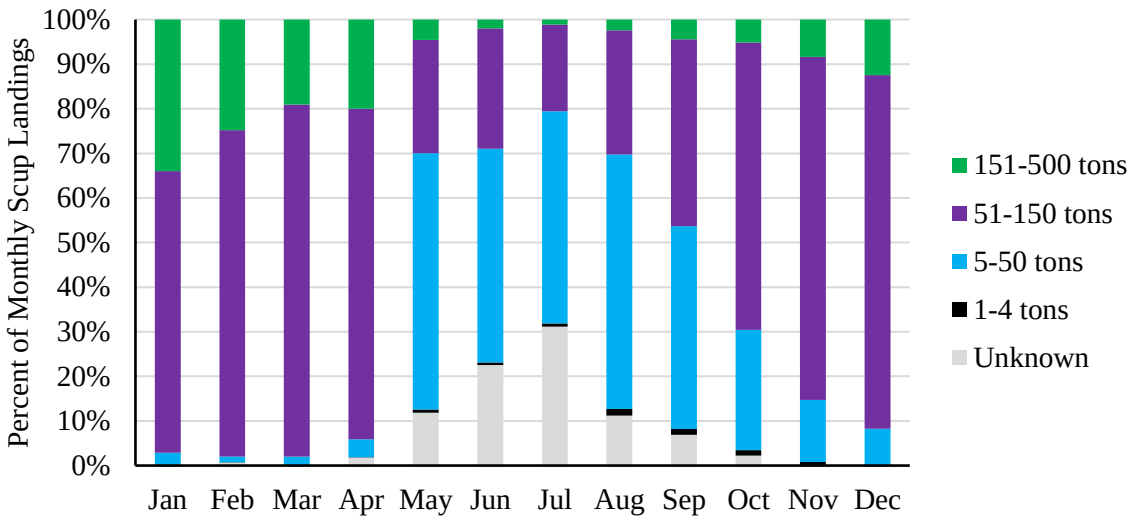


Figure 22: Average scup landings by month by vessel ton class, 2011-2015. Data for vessels greater than 500 tons are confidential and are not shown.

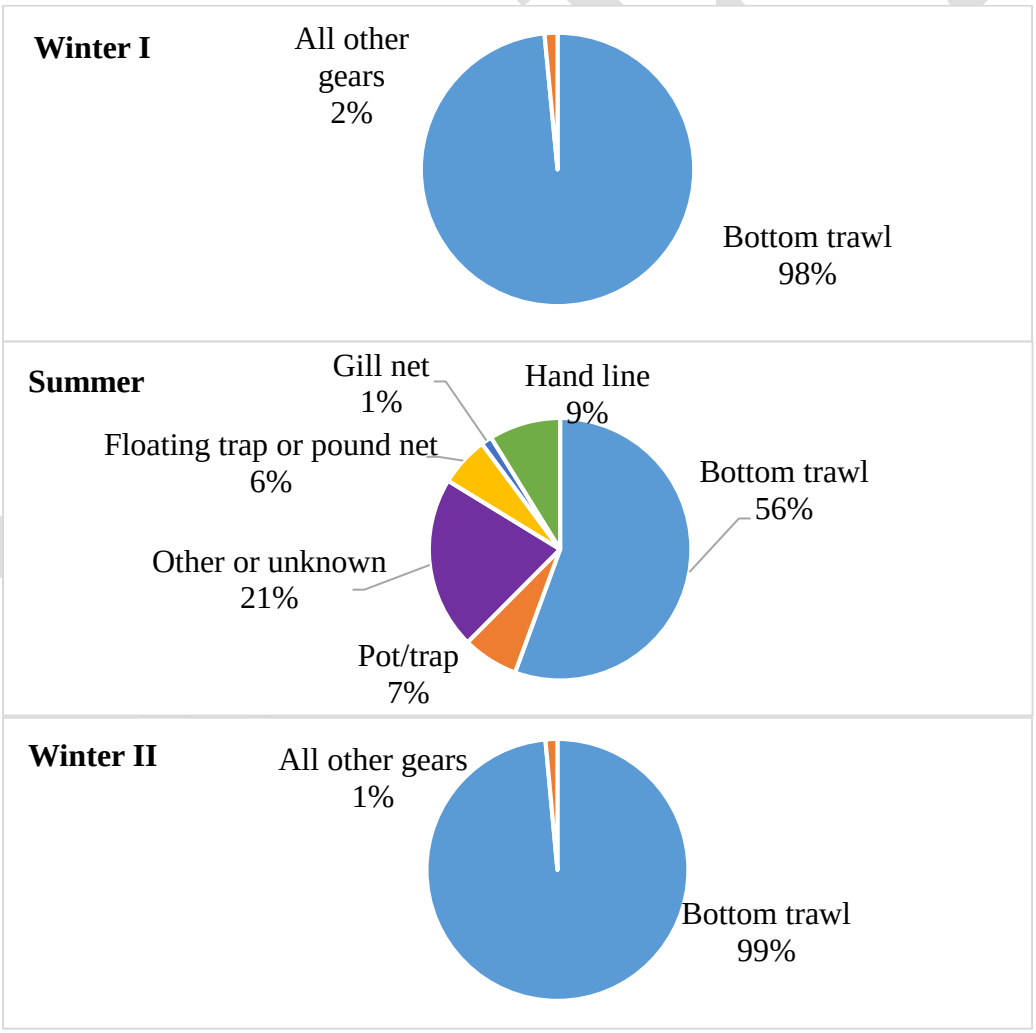


Figure 23: Scup landings by gear type and quota period, Maine through North Carolina, 2011-2015.

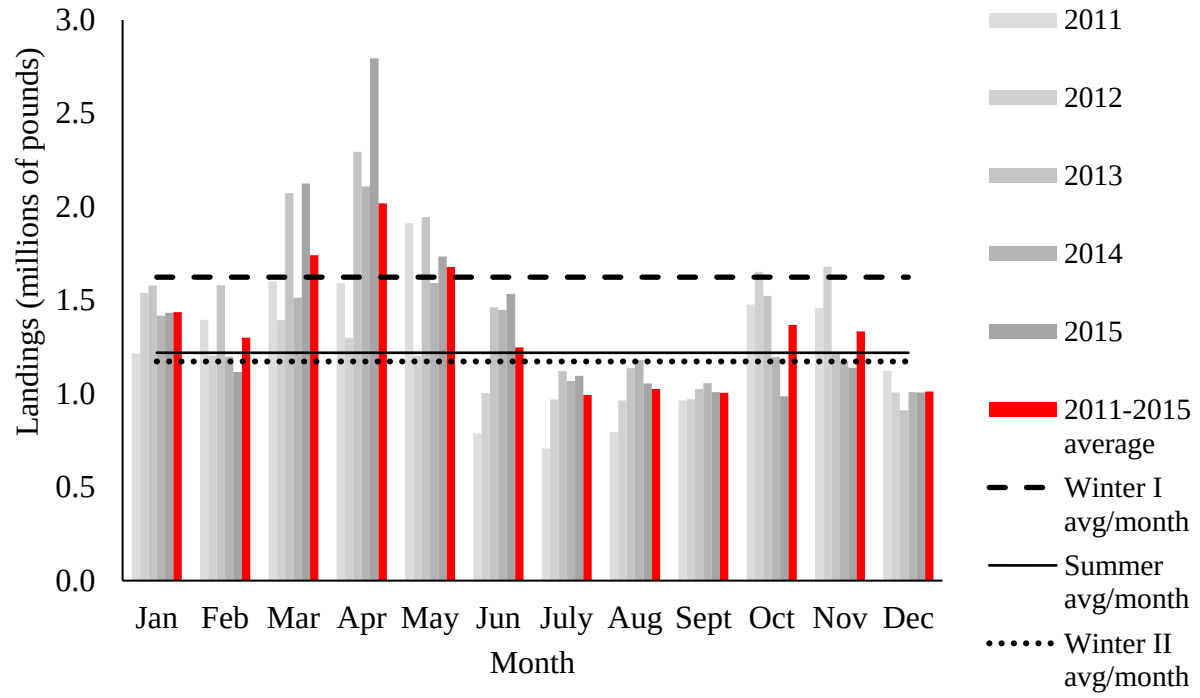


Figure 24: Commercial scup landings per month, 2011-2015, shown with average landings per month during the Winter I (January – April), Summer (May – October), and Winter II (November and December) quota periods.

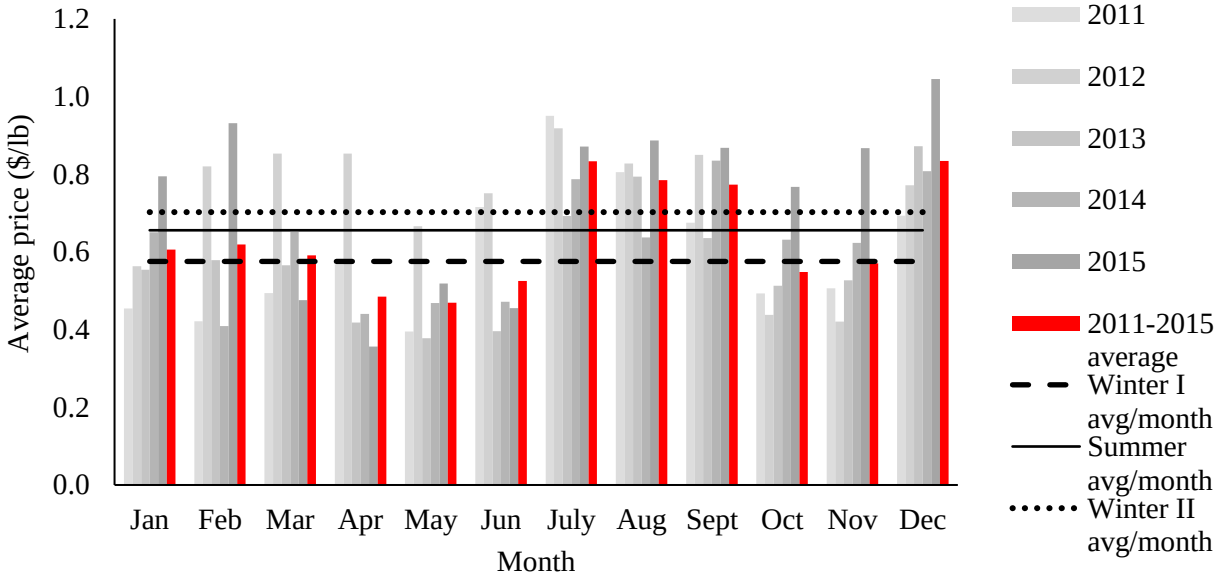


Figure 25: Average scup price per month, 2011-2015 shown with average price per month during the Winter I (January – April), Summer (May-October), and Winter II (November and December) quota periods.

Table 6: Percent of annual commercial scup landings in each state from Massachusetts through North Carolina by month, 2011-2015. C refers to confidential data representing fewer than three vessels and/or dealers.

	MA	CT	RI	NY	NJ	DE	MD	VA	NC
Jan	13%	15%	3%	9%	19%	0%	22%	11%	11%
Feb	5%	14%	4%	6%	19%	0%	25%	9%	75%
Mar	3%	12%	7%	10%	20%	0%	30%	39%	1%
Apr	3%	17%	7%	16%	23%	0%	21%	24%	7%
May	16%	3%	15%	10%	1%	C	0%	1%	0%
Jun	6%	6%	10%	11%	1%	0%	0%	C	0%
Jul	23%	5%	7%	4%	0%	0%	0%	C	0%
Aug	21%	4%	9%	3%	0%	0%	0%	0%	0%
Sep	6%	3%	11%	3%	1%	C	0%	0%	0%
Oct	2%	6%	14%	7%	2%	C	0%	1%	0%
Nov	2%	7%	9%	12%	6%	C	0%	6%	0%
Dec	2%	7%	5%	9%	8%	C	2%	8%	6%

Table 7: Percent of annual recreational landings by wave and by state, 2013-2015. (Source: MRIP data, downloaded January 11, 2017). MRIP does not operate during wave 1 (January – February) in the states of Massachusetts through Virginia. MRIP estimates for wave 1, 2013-2015 in North Carolina showed now scup landings. No states had estimates of scup landings during wave 2 (March-April).

State	May/June	July/Aug	Sept/Oct	Nov/Dec	Coastwide Annual Landings
MASSACHUSETTS	73%	15%	11%	0%	35%
RHODE ISLAND	16%	44%	40%	0%	17%
CONNECTICUT	10%	42%	48%	0%	15%
NEW YORK	9%	46%	44%	2%	32%
NEW JERSEY	0%	27%	73%	0%	1%
DELAWARE	7%	4%	0%	89%	0%
MARYLAND	0%	0%	3%	97%	0%
VIRGINIA	0%	35%	65%	0%	0%
NORTH CAROLINA	40%	16%	39%	5%	0%
Total	**32%**	**34%**	**33%**	**1%**	

6.3. Protected Species

Protected species are those species afforded protections under the Endangered Species Act (ESA; i.e. species listed as threatened or endangered under the ESA) and/or the Marine Mammal Protection Act (MMPA). Multiple protected species occur within the scup management unit.

[To be completed.]

6.4. Physical Habitat

The physical, chemical, biological, and geological components of benthic and pelagic environments are important aspects of habitat for marine species and have implications for reproduction, growth, and survival of marine species. The following sections briefly describe key aspects of physical habitats which may be impacted by the alternatives considered in this document. This information is largely drawn from Stevenson et al. (2004), unless otherwise noted.

6.4.1. Physical Environment

Scup inhabit the northeast U.S. shelf ecosystem, which includes the area from the Gulf of Maine south to Cape Hatteras, extending seaward from the coast to the edge of the continental shelf, including the slope sea offshore to the Gulf Stream. The northeast shelf ecosystem includes the Gulf of Maine, Georges Bank, the Mid-Atlantic Bight, and the continental slope.

The Gulf of Maine is an enclosed coastal sea, characterized by relatively cold waters and deep basins, with a patchwork of various sediment types.

Georges Bank is a relatively shallow coastal plateau that slopes gently from north to south and has steep submarine canyons on its eastern and southeastern edge. It is characterized by highly productive, well-mixed waters and strong currents.

The Mid-Atlantic Bight is comprised of the sandy, relatively flat, gently sloping continental shelf from southern New England to Cape Hatteras, North Carolina.

The continental slope begins at the continental shelf break and continues eastward with increasing depth until it becomes the continental rise. It is fairly homogenous, with exceptions at the shelf break, some of the canyons, the Hudson Shelf Valley, and in areas of glacially rafted hard bottom. The continental shelf in this region was shaped largely by sea level fluctuations caused by past ice ages. The shelf's basic morphology and sediments derive from the retreat of the last ice sheet and the subsequent rise in sea level. Currents and waves have since modified this basic structure.

Shelf and slope waters of the Mid-Atlantic Bight have a slow southwestward flow that is occasionally interrupted by warm core rings or meanders from the Gulf Stream. On average, shelf water moves parallel to bathymetry isobars at speeds of 5 - 10 cm/s at the surface and 2

cm/s or less at the bottom. Storm events can cause much more energetic variations in flow. Tidal currents on the inner shelf have a higher flow rate of 20 cm/s that increases to 100 cm/s near inlets.

The shelf slopes gently from shore out to between 100 and 200 km offshore where it transforms to the slope (100 - 200 m water depth) at the shelf break. Numerous canyons incise the slope and some cut up onto the shelf itself. The primary morphological features of the shelf include shelf valleys and channels, shoal massifs, scarps, and sand ridges and swales. Most of these structures are relic except for some sand ridges and smaller sand-formed features. Shelf valleys and slope canyons were formed by rivers of glacier outwash that deposited sediments on the outer shelf edge as they entered the ocean. Most valleys cut about 10 m into the shelf; however, the Hudson Shelf Valley is about 35 m deep. The valleys were partially filled as the glacier melted and retreated across the shelf. The glacier also left behind a lengthy scarp near the shelf break from Chesapeake Bay north to the eastern end of Long Island. Shoal retreat massifs were produced by extensive deposition at a cape or estuary mouth. Massifs were also formed as estuaries retreated across the shelf.

Some sand ridges are more modern in origin than the shelf's glaciated morphology. Their formation is not well understood; however, they appear to develop from the sediments that erode from the shore face. They maintain their shape, so it is assumed that they are in equilibrium with modern current and storm regimes. They are usually grouped, with heights of about 10 m, lengths of 10 - 50 km and spacing of 2 km. Ridges are usually oriented at a slight angle towards shore, running in length from northeast to southwest. The seaward face usually has the steepest slope. Sand ridges are often covered with smaller similar forms such as sand waves, megaripples, and ripples. Swales occur between sand ridges. Since ridges are higher than the adjacent swales, they are exposed to more energy from water currents and experience more sediment mobility than swales. Ridges tend to contain less fine sand, silt and clay while relatively sheltered swales contain more of the finer particles. Swales have greater benthic macrofaunal density, species richness and biomass, due in part to the increased abundance of detrital food and the less physically rigorous conditions.

Sand waves are usually found in patches of 5 - 10 with heights of about 2 m, lengths of 50 - 100 m and 1 - 2 km between patches. Sand waves are primarily found on the inner shelf, and often observed on sides of sand ridges. They may remain intact over several seasons. Megaripples occur on sand waves or separately on the inner or central shelf. During the winter storm season, they may cover as much as 15% of the inner shelf. They tend to form in large patches and usually have lengths of 3 - 5 m with heights of 0.5 - 1 m. Megaripples tend to survive for less than a season. They can form during a storm and reshape the upper 50 - 100 cm of the sediments within a few hours. Ripples are also found everywhere on the shelf and appear or disappear within hours or days, depending upon storms and currents. Ripples usually have lengths of about 1 - 150 cm and heights of a few centimeters.

Sediments are uniformly distributed over the shelf in this region. A sheet of sand and gravel varying in thickness from 0 - 10 m covers most of the shelf. The mean bottom flow from the constant southwesterly current is not fast enough to move sand, so sediment transport must be episodic. Net sediment movement is in the same southwesterly direction as the current. The sands are mostly medium to coarse grains, with finer sand in the Hudson Shelf Valley and on the outer shelf. Mud is rare over most of the shelf, but is common in the Hudson Shelf Valley. Occasionally relic estuarine mud deposits are re-exposed in the swales between sand ridges. Fine sediment content increases rapidly at the shelf break, which is sometimes called the "mud line," and sediments are 70 - 100% fine on the slope. On the slope, silty sand, silt, and clay predominate (Stevenson et al. 2004).

Greene et al. (2010) identified and described Ecological Marine Units (EMUs) in New England and the Mid-Atlantic based on sediment type, seabed form (a combination of slope and relative depth)[5], and benthic organisms.[6] According to this classification scheme, the sediment composition off New England and the Mid-Atlantic is about 68% sand, 26% gravel, and 6% silt/mud. The seafloor is classified as about 52% flat, 26% depression, 19% slope, and 3% steep (Table 8).

Artificial reefs are another significant Mid-Atlantic habitat. These localized areas of hard structure were formed by shipwrecks, lost cargoes, disposed solid materials, shoreline jetties and groins, submerged pipelines, cables, and other materials (Steimle and Zetlin 2000). Some of these materials were deposited specifically for use as fish habitat, but most have an alternative primary purpose; however, they have all become an integral part of the coastal and shelf ecosystem. In general, reefs are important for attachment sites, shelter, and food for many species. Fish predators may be attracted by prey aggregations or may be behaviorally attracted to the reef structure.

Like all the world's oceans, the western North Atlantic is experiencing changes to the physical environment due to global climate change. These changes include warming temperatures; sea level rise; ocean acidification; changes in stream flow, ocean circulation, and sediment deposition; and increased frequency, intensity and duration of extreme climate events. These changes in physical habitat can impact the metabolic rate and other biological processes of marine species. As such, these changes have implications for the distribution and productivity of marine species. Several studies demonstrate that the distribution and productivity of several species in the Mid-Atlantic have changed over time, likely due to changes in physical habitat conditions such as temperature (e.g. Weinberg 2005, Lucey and Nye 2010, Nye et al. 2011, Pinsky et al. 2013, Gaichas et al. 2015).

[5] Seabed form contains the categories of depression, mid flat, high flat, low slope, side slope, high slope, and steep slope.
[6] See Greene et al. 2010 for a description of the methodology used to define EMUs.

Table 8: Composition of Ecological Marine Units (EMUs) off New England and the Mid-Atlantic (Greene et al. 2010). EMUs which account for less than 1% of the surface area of these regions are not shown.

Ecological Marine Unit	Percent Coverage
High Flat Sand	13%
Moderate Flat Sand	10%
High Flat Gravel	8%
Side Slope Sand	6%
Somewhat Deep Flat Sand	5%
Low Slope Sand	5%
Moderate Depression Sand	4%
Very Shallow Flat Sand	4%
Side Slope Silt/Mud	4%
Moderate Flat Gravel	4%
Deeper Depression Sand	4%
Shallow Depression Sand	3%
Very Shallow Depression Sand	3%
Deeper Depression Gravel	3%
Shallow Flat Sand	3%
Steep Sand	3%
Side Slope Gravel	3%
High Flat Silt/Mud	2%
Shallow Depression Gravel	2%
Low Slope Gravel	2%
Moderate Depression Gravel	2%
Somewhat Deep Depression Sand	2%
Deeper Flat Sand	1%
Shallow Flat Gravel	1%
Deep Depression Gravel	1%
Deepest Depression Sand	1%
Very Shallow Depression Gravel	1%

6.4.2. Essential Fish Habitat (EFH)

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) defines EFH as "those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity" (MSA section 3). The MSA requires that Councils describe and identify EFH for managed species and "minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat" (MSA section 303 (a)(7)).

The broad definition of EFH has led the Mid-Atlantic and the New England Fishery Management Councils to identify EFH throughout most of the Northeast U.S. Shelf Ecosystem, ranging from areas out to the shelf break to wetlands, streams, and rivers. Table 9 summarizes EFH in the northeast shelf ecosystem for federally-managed species and lifestages that are vulnerable to bottom tending fishing gear.

Table 9: Essential Fish Habitat descriptions for federally-managed species/life stages that are vulnerable to bottom tending fishing gear in the U.S. northeast shelf ecosystem.

Species	**Life Stage**	**Geographic Area of EFH**	**Depth (meters)**	**Bottom Type**
American plaice	juvenile	GOM, including estuaries from Passamaquoddy Bay to Saco Bay, ME and from Massachusetts Bay to Cape Cod Bay	45 - 150	Fine grained sediments, sand, or gravel
American plaice	adult	GOM, including estuaries from Passamaquoddy Bay to Saco Bay, ME and from Massachusetts Bay to Cape Cod Bay	45 - 175	Fine grained sediments, sand, or gravel
Atlantic cod	juvenile	GOM, GB, eastern portion of continental shelf off SNE, these estuaries: Passamaquoddy Bay to Saco Bay, Massachusetts Bay, Boston Harbor, Cape Cod Bay, Buzzards Bay	25 - 75	Cobble or gravel
Atlantic cod	adult	GOM, GB, eastern portion of continental shelf off SNE, these estuaries: Passamaquoddy Bay to Saco Bay, Massachusetts Bay, Boston Harbor, Cape Cod Bay, Buzzards Bay	10 - 150	Rocks, pebbles, or gravel
Atl halibut	juvenile	GOM and GB	20 - 60	Sand, gravel, or clay
Atl halibut	adult	GOM and GB	100 - 700	Sand, gravel, or clay
Barndoor skate	juvenile/ adult	Eastern GOM, GB, SNE, Mid-Atlantic Bight to Hudson Canyon	l0-750, most < 150	Mud, gravel, and sand
Black sea bass	juvenile	GOM to Cape Hatteras, NC, including estuaries from Buzzards Bay to Long Island Sound, Gardiners Bay, Barnegat Bay to Chesapeake Bay, Tangier/ Pocomoke Sound, and James River	1 - 38	Rough bottom, shellfish/ eelgrass beds, manmade structures, offshore clam beds, and shell patches
Black sea bass	adult	GOM to Cape Hatteras, NC, including Buzzards Bay, Narragansett Bay, Gardiners Bay, Great South Bay, Barnegat Bay to Chesapeake Bay, and James River	20 - 50	Structured habitats (natural and manmade), sand and shell substrates preferred
Clearnose skate	juvenile/ adult	GOM, along continental shelf to Cape Hatteras, NC, including the estuaries from Hudson River/Raritan Bay south to the Chesapeake Bay mainstem	0 – 500, most < 111	Soft bottom and rocky or gravelly bottom
Haddock	juvenile	GB, GOM, and Mid-Atlantic south to Delaware Bay	35 - 100	Pebble and gravel
Haddock	adult	GB, eastern side of Nantucket Shoals, and throughout GOM	40 - 150	Broken ground, pebbles, smooth hard sand, and smooth areas between rocky patches
Little skate	juvenile/ adult	GB through Mid-Atlantic Bight to Cape Hatteras, NC; includes estuaries from Buzzards Bay south to mainstem Chesapeake Bay	0-137, most 73 - 91	Sandy or gravelly substrate or mud

Species	Life Stage	Geographic Area of EFH	Depth (meters)	Bottom Type
Ocean pout	eggs	GOM, GB, SNE, and Mid-Atlantic south to Delaware Bay, including the following estuaries: Passamaquoddy Bay to Saco Bay, Massachusetts Bay and Cape Cod Bay	<50	Generally sheltered nests in hard bottom in holes or crevices
Ocean pout	juvenile	GOM, GB, SNE, Mid-Atlantic south to Delaware Bay and the following estuaries: Passamaquoddy Bay to Saco Bay, Massachusetts Bay, and Cape Cod Bay	< 50	Close proximity to hard bottom nesting areas
Ocean pout	adult	GOM, GB, SNE, Mid-Atlantic south to Delaware Bay and the following estuaries: Passamaquoddy Bay to Saco Bay, MA Bay, Boston Harbor, and Cape Cod Bay	< 80	Smooth bottom near rocks or algae
Pollock	adult	GOME, GB, SNE, and Mid-Atlantic south to New Jersey and the following estuaries: Passamaquoddy Bay, Damariscotta R., MA Bay, Cape Cod Bay, Long Island Sound	15 – 365	Hard bottom habitats including artificial reefs
Red hake	juvenile	GOM, GB, continental shelf off SNE, and Mid-Atlantic south to Cape Hatteras, including the following estuaries: Passamaquoddy Bay to Saco Bay, Great Bay, MA Bay to Cape Cod Bay; Buzzards Bay to CT River, Hudson River, Raritan Bay, and Chesapeake Bay	< 100	Shell fragments, including areas with an abundance of live scallops
Red hake	adult	GOM, GB, continental shelf off SNE, Mid-Atlantic south to Cape Hatteras, these estuaries: Passamaquoddy Bay to Saco Bay, Great Bay, MA Bay to Cape Cod Bay; Buzzards Bay to CT River, Hudson River, Raritan Bay, Delaware Bay, and Chesapeake Bay	10 - 130	In sand and mud, in depressions
Redfish	juvenile	GOM, southern edge of GB	25 - 400	Silt, mud, or hard bottom
Redfish	adult	GOM, southern edge of GB	50 - 350	Silt, mud, or hard bottom
Rosette skate	juvenile/ adult	Nantucket shoals and southern edge of GB to Cape Hatteras, NC	33-530, most 74-274	Soft substrate, including sand/mud bottoms
Scup	juvenile/adult	GOM to Cape Hatteras, NC, including the following estuaries: MA Bay, Cape Cod Bay to Long Island Sound, Gardiners Bay to Delaware inland bays, and Chesapeake Bay	0-38 for juv 2-185 for adult	Demersal waters north of Cape Hatteras and inshore estuaries (various substrate types)
Silver hake	juvenile	GOM, GB, continental shelf off SNE, Mid-Atlantic south to Cape Hatteras and the following estuaries: Passamaquoddy Bay to Casco Bay, ME, MA Bay to Cape Cod Bay	20 – 270	All substrate types
Summer Flounder	juvenile/adult	GOM to Florida – estuarine and over continental shelf to shelf break	0-250	Demersal/estuarine waters, varied substrates. Mostly inshore in summer and offshore in winter.
Smooth skate	juvenile/ adult	Offshore banks of GOM	31–874, most 110-457	Soft mud (silt and clay), sand, broken shells, gravel and pebbles

Species	Life Stage	Geographic Area of EFH	Depth (meters)	Bottom Type
Thorny skate	juvenile/ adult	GOM and GB	18-2000, most 111-366	Sand, gravel, broken shell, pebbles, and soft mud
Tilefish	juvenile/ adult	Outer continental shelf and slope from the U.S./Canadian boundary to the Virginia/North Carolina boundary	100 - 300	Burrows in clay (some may be semi-hardened into rock)
White hake	juvenile	GOM, southern edge of GB, SNE to Mid-Atlantic and the following estuaries: Passamaquoddy Bay, ME to Great Bay, NH, Massachusetts Bay to Cape Cod Bay	5 - 225	Seagrass beds, mud, or fine grained sand
Winter flounder	adult	GB, inshore areas of GOM, SNE, Mid- Atlantic south to Delaware Bay and the estuaries from Passamaquoddy Bay, ME to Chincoteague Bay, VA	1 - 100	Mud, sand, and gravel
Winter skate	juvenile/ adult	Cape Cod Bay, GB, SNE shelf through Mid-Atlantic Bight to North Carolina; includes the estuaries from Buzzards Bay south to the Chesapeake Bay mainstem	0 - 371, most < 111	Sand and gravel or mud
Witch flounder	juvenile	GOM, outer continental shelf from GB south to Cape Hatteras	50 - 450 to 1500	Fine grained substrate
Witch flounder	adult	GOME, outer continental shelf from GB south to Chesapeake Bay	25 - 300	Fine grained substrate
Yellowtail flounder	adult	GB, GOM, SNE and Mid-Atlantic south to Delaware Bay and these estuaries: Sheepscot River and Casco Bay, ME, MA Bay to Cape Cod Bay	20 - 50	Sand or sand and mud

6.4.3. Fishery Impact Considerations

Only those gear types which contact the bottom impact physical habitat. As described in section 6.2 and shown in Figure 23; the vast majority of scup landed in the commercial fishery are caught with bottom trawls. About 7% of the scup landed in the commercial fishery in the summer are caught with pots/traps. Other gear types account for small percentages of commercial scup landings and do not contact the bottom (e.g. floating traps, pound nets, hand lines, and gill nets). This section summarizes the impacts of bottom trawls and fish pots/traps on physical habitat.

Otter trawl doors can create furrows in sand, mud, and gravel/rocky substrates. Studies have found furrow depths that range from 2 to 10 cm. Bottom trawl gear can also re-suspend and disperse surface sediments and can smooth topographic features. It can also result in reduced abundance, and in some cases reduced diversity, of benthic species such as nematodes, polychaetes, and bivalves. It can also have short-term positive ecological impacts such as increased food value and increased chlorophyll production in surface sediments. The duration of these impacts varies by sediment type, depth, and frequency of the impact (e.g. a single trawl tow vs. repeated tows). Some studies have documented effects that lasted only a few months. Other

studies found effects that lasted up to 18 months. Impacts tend to have shorter durations in dynamic environments with less structured bottom composition compared to less dynamic environments with structured bottom. Shallower water, stronger bottom currents, more wave action, finer-grained sediments, and higher frequencies of natural disturbance are characteristics that make environments more dynamic (Stevenson et al. 2004).

Compared to otter trawls, Stevenson et al. (2004) summarized fewer studies on fish pots/traps. Morgan and Chuenpagdee (2003) found that the impacts of traps were generally limited to warm or shallow-water environments with rooted aquatic vegetation or "live bottom" environments (e.g. coral reefs). These impacts were of a lesser degree than those from bottom trawls. Eno et al. (2001) found that traps can bend, smother, and uproot sea pens in soft sediments; however, sea pen communities were largely able to recover within a few days of the impact.

The Council developed some fishery management actions with the sole intent of protecting marine habitats. For example, in Amendment 9 to the Mackerel, Squids, and Butterfish FMP, the Council determined that bottom trawls used in Atlantic mackerel, longfin and *Illex* squid, and butterfish fisheries have the potential to adversely affect EFH for some federally-managed fisheries (MAFMC 2008). As a result of Amendment 9, closures to squid trawling were developed for portions of Lydonia and Oceanographer Canyons. Subsequent closures were implemented in these and Veatch and Norfolk Canyons to protect tilefish EFH by prohibiting all bottom trawling activity. In addition, amendment 16 to the Mackerel, Squid, and Butterfish FMP prohibits the use of all bottom-tending gear in fifteen discrete zones and one broad zone where deep sea corals are known or highly likely to occur (81 *Federal Register* 90246, December 14, 2016).

7. Environmental Consequences of Alternatives

This section summarizes the expected impacts of each of the management alternatives (section 5) on the four VECs:

- Scup and non-target species (section 7.1)
- Human communities (section 7.2)
- Protected species (section 7.3)
- Physical habitat (section 7.4)

This section is organized by VEC. The expected impacts of the alternatives are described in terms of direction (i.e. negative, neutral, or positive) and magnitude (i.e. slight, moderate, or high). Both short and long-term impacts are considered.

When considering impacts on each VEC, the alternatives are compared to the no action alternative (alternative 1) and assessed based on their likely impacts on current environmental and socioeconomic conditions (section 6). The no action alternative assumes that the current management regimes and fishery operations will continue into the future. The no action

alternative does not necessarily imply no impact. The affected environment is not static; therefore, impacts to the VECs could still occur if no action is taken, as is explained in more detail in the following sections.

It is not possible to quantify with confidence how fishing effort will change under each alternative; therefore, expected changes are described qualitatively. In general, alternatives which may result in an increase in fishing effort, compared to recent levels, could lead to increased fishing mortality for target and non-target species. An increase in fishing mortality could result in negative impacts if it causes the stock in question to experience overfishing or to become or remain overfished. If the increase in fishing mortality does not result in overfishing or an overfished status, it could have neutral impacts on the stock. Conversely, alternatives which may result in a decrease in fishing effort may lead to a decrease in fishing mortality and thus neutral or positive impacts for those species, depending on the magnitude of the decrease and on the abundance of the stock in question.

Socioeconomic impacts are considered in relation to potential changes in landings, prices, and revenues. Alternatives which could lead to increased availability of landed species and/or an increase in catch per unit effort (CPUE) could lead to increased landings. Increased landings are generally considered to have positive socioeconomic impacts because they are likely to result in increased revenues; however, some negative socioeconomic impacts could occur, or the magnitude of the positive impacts could be lessened, if an increase in landings leads to a decrease in price or a decrease in abundance of any of the landed species.

Alternatives which may result in an increase in fishing effort may lead to an increase in the amount of time that fishing gear is in the water and thus could increase the potential for interactions between fishing gear and protected species. Changes in interaction rates with protected species are difficult to predict and may not directly correlate with overall levels of effort as they are highly dependent on the location and timing of fishing effort. Continued fishing activity, even at *status quo* levels, can result in negative impacts to protected species as it can contribute to the continuation of an endangered or threatened status.

Alternatives which may result in a reduction in fishing effort, compared to recent levels, may have neutral to positive impacts on physical habitat. A reduction in fishing effort could lead to a decrease in the amount of time that fishing gear is in the water (thus decreasing the potential for damaging interactions between fishing gear and physical habitat) or a decrease in the area over which the gear is used. Either of these changes could result in positive impacts to physical habitat if the habitat is able to recover from past impacts. Some habitats have been heavily fished by multiple fishing fleets over many decades and are unlikely to see a measurable improvement in their condition in response to decreases in effort in an individual fishery. In this way, a reduction in fishing effort could lead to neutral impacts on habitat. Alternatives which may result in an increase in fishing effort may result in negative impacts to habitat due to an increased potential for damaging interactions with fishing gear.

7.1. Impacts of the Alternatives on Scup and Non-Target Species

None of the alternatives would modify the annual commercial scup quotas. These quotas are based on the best available scientific information and are intended to prevent overfishing.[7] As such, all the alternatives are expected to have positive impacts on the scup stock by continuing to prevent overfishing and maintaining the rebuilt status of the stock.

Fishing effort and landings will continue to be restricted by the annual commercial quota under all the alternatives; however, slight differences among the alternatives are expected in terms of fishing effort and fishing mortality for scup and non-target species. The following sections summarize the impacts expected to result from these slight differences (section 6.1.2).

When ranked in terms of their impacts on scup and non-target species, alternative 1 is expected to have the most positive impacts, followed by alternatives 2, 3.A, 3.B, and 3.C.

7.1.1. Impacts of Alternative 1 (No Action) on Scup and Non-Target Species

Under alternative 1, no changes would be made to the management measures associated with the commercial scup quota periods. These measures help to ensure that commercial landings are restricted to the period quotas and to the annual commercial quota, which is based on the best available science and is intended to prevent overfishing.

As described in section 6.1.1, the scup stock is well above the biomass threshold for overfished status, and has been since 2009. As described in section 6.1.2, none of the common non-target species in the commercial scup fishery are overfished, though some are experiencing overfishing and some have an unknown status. Landings and discards of most of these species in the scup fishery are accounted for and AMs allow for mitigation of negative impacts of mortality in the scup fishery (and other fisheries).

Alternative 1 is not expected to result in a change in fishing effort or fishing mortality compared to recent levels and is thus not expected to impact the status of the scup stock, or of non-target species. It is not expected to result in any stock becoming overfished. By maintaining the benefits of constraining landings to the commercial scup quota and regulating fishing effort, alternative 1 is expected to have continued positive impacts on scup and non-target species.

7.1.2. Impacts of Alternative 2 (Move October to the Winter II Quota Period) on Scup and Non-Target Species

Under alternative 2, the month of October would become part of the Winter II quota period, as opposed to the Summer period under the no action alternative (alternative 1). All other regulations would remain unchanged (section 5.2).

[7] The process used to develop these quotas is described in detail in MAFMC 2015.

Under the no action alternative (alternative 1), a variety of possession limits are in effect in October in state waters (Table 4). During this time of year, vessels fishing in Federal waters are bound by the possession limits of the state in which they land their catch. Under alternative 2, October would become part of the Winter II quota period and a possession limit of at least 12,000 pounds would be in effect in Federal waters, depending on the amount of unused quota (if any) that rolls over from Winter I. This would represent a notable increase in the possession limit in October, compared to the no action alternative (Table 4).

As described in section 6.1.1, the NEFSC fall bottom trawl survey and the NEAMAP survey suggest that commercial-sized scup are available in both state and Federal waters during October (Figure 11- Figure 15). This suggests that an increase in the possession limit during October could lead to increased landings. However, the RI DEM trawl survey, the URI GSO Narragansett Bay trawl survey, and the state of New Jersey Ocean Trawl Survey suggest that most of the scup present in state and Federal waters in October are below the commercial size, which would not be expected to lead to an increase in landings as those scup would have to be discarded (Figure 16 - Figure 20).

The increased possession limit in October under alternative 2, coupled with availability of commercial-sized scup as shown in some trawl surveys, is expected to lead to a slight increase in fishing effort and commercial scup landings during the month of October, compared to the no action alternative (alternative 1). This in turn is expected to result in a slight increase in fishing mortality for scup and non-target species. Commercial landings would still be closely monitored and the fishery would close for the remainder of the Winter II period if the Winter II allocation is fully harvested before the end of the year. Annual landings are expected to slightly increase under alternative 2, but not to the extent that they exceed the annual commercial quota. The annual commercial quota is derived from the best scientific information available and is intended to prevent overfishing. Thus, the expected increase in fishing effort and fishing mortality under alternative 2 is not expected to jeopardize the sustainability of the scup stock. Due to the availability of scup in October, it is possible that scup landings could increase under alternative 2 with only a minor increase in fishing effort if CPUE is high. If so, alternative 2 could have only minimal impacts on non-target species.

By continuing to prevent overfishing, alternative 2 is expected to have positive impacts on scup and non-target species. Alternative 2 is expected to lead to an increase in fishing effort and fishing mortality compared to alternative 1; therefore, the positive impacts of alternative 2 are expected to be lesser in magnitude than alternative 1.

7.1.3. Impacts of Alternative 3 (Move May 1-15 to the Winter I Quota Period and Move October to the Winter II Quota Period) on Scup and Non-Target Species

Alternative 3 includes three sub-alternatives (alternatives 3.A-3.C). The impacts of those alternatives on scup and non-target species are summarized in the following sections.

7.1.3.1. Impacts of Alternative 3.A (Move May 1-15 to the Winter I Quota Period, Move October to the Winter II Quota Period, and Take No Action on Winter I and Summer Quota Counting Procedures) on Scup and Non-Target Species

Under the no action alternative (alternative 1), the Summer quota period begins May 1. A variety of possession limits are in effect in state waters during the Summer period (Table 4) and vessels fishing in Federal waters are bound by the possession limits of the state in which they land their catch. Under alternative 3.A, May 1-15 would become part of the Winter I quota period and a Federal waters possession limit of 50,000 pounds would be in effect during that time. This represents a sizeable increase in the possession limit, compared to the no action alternative (Table 4). In addition, under alternative 3.A, October would become part of the Winter II period, as opposed to the Summer period under alternative 1. The expected impacts of the change in October on scup and non-target species are described in the previous section for alternative 2 and are not repeated here.

In addition to the changes in the dates of the quota periods, under alternative 3.A the quota counting procedures described in section 4.2 and at 50 CFR 648.123(a)(2)(iv) would remain unchanged. These quota counting procedures allow for certain circumstances in which state-only permit holders fishing in state waters can land scup during April 15-30 if the Winter I fishery is otherwise closed. Since this measure was implemented in 2003, the Winter I fishery has not closed prior to April 30; therefore, this procedure has never been used. If it were to be used, it could lead to a very slight increase in landings than would otherwise be allowed if this provision did not exist. This increase in landings would occur during a maximum of two weeks each year. Landings would still be restricted to the quota period allocations and to the annual commercial quota, which is based on the best available science and is intended to prevent overfishing.

As described in section 6.1.1, the NEAMAP, RI DEM, URI GSO Narragansett Bay, and MA DMF trawl surveys suggest that commercial-sized scup are present in state and Federal waters during May 1-15 (Figure 4 -Figure 10, Figure 18). The increased possession limit during May 1-15 under alternative 3.A, coupled with availability of commercial-sized scup as shown in these surveys, is expected to lead to a slight increase in fishing effort and fishing mortality during May 1-15 compared to alternatives 1 and 2 and during October compared to alternative 1. However, the availability of scup may result in high CPUE, which could allow for an increase in landings with only a minimal increase in fishing effort.

Scup spawn along the inner continental shelf, mostly off southern New England, from May through August, with a peak in June and July. In some locations, such as eastern Long Island bays and Raritan Bay, spawning mostly occurs in May and June (Steimle et al. 1999). Alternative 3.A is thus expected to lead to a slight increase in fishing mortality during the beginning of the scup spawning season compared to the no action alternative (alternative 1). An increase in fishing mortality could have greater negative impacts during the spawning season than during other times of the year if it negatively impacts recruitment. Under alternative 3.A,

this increase in fishing mortality would occur during two weeks of the four-month spawning season; therefore, it may not have a notable impact on recruitment. Additionally, the scup fishery (and other fisheries) have operated during this time of year with lower possession limits for decades. Some level of fishing effort will continue during this time of year, regardless of which alternative is implemented. Thus, if no action is taken, the fishery would continue to have some impacts during the spawning season.

Under alternative 3.A, commercial landings would still be closely monitored and the fishery would close for the remainder of any quota period if the allocation for that period is landed before the end of the year. Annual landings are expected to slightly increase under alternative 3.A, but not to the extent that they exceed the annual commercial quota. The quota is derived from the best scientific information available and is intended to prevent overfishing. In addition, the availability of scup in state and Federal waters as shown in several trawl surveys suggests that landings could increase with only a minor increase in fishing effort if CPUE is high. For these reasons, the expected increase in fishing effort and fishing mortality under alternative 3.A is not expected to jeopardize the sustainability of the scup stock or any non-target stocks. Alternative 3.A is thus expected to have positive impacts on scup and non-target stocks. Alternative 3.A is expected to lead to a slight increase in fishing effort and fishing mortality during May 1-15 compared to alternatives 1 and 2 and during October compared to alternative 1; therefore, the positive impacts of alternative 3 are expected to be lesser in magnitude than those of alternatives 1 and 2.

7.1.3.2. Impacts of Alternative 3.B (Move May 1-15 to the Winter I Quota Period, Move October to the Winter II Quota Period, and Modify the End Date of the Winter I and Summer Quota Counting Procedures) on Scup and Non-Target Species

Alternative 3.B is identical to alternative 3.A (the impacts of which are described in section 7.1.2) except that the quota counting procedures described in in section 4.2 and at 50 CFR 648.123(a)(2)(iv) would be modified such that, in certain circumstances, state-only permit holders fishing in state waters could land scup during April 15 – May 15 if the Winter I fishery is otherwise closed (as opposed to April 15-30 under alternative 3.A). This would allow for landings of scup during up to four weeks (as opposed to up to two weeks under alternative 3.A) in certain circumstances when landings would otherwise be prohibited. This could lead to a very slight increase in fishing effort, compared to alternatives 3.A and 3.C (both of which would allow these landings during a two week period); thus, alternative 3.B is expected to have slight negative impacts on scup and non-target species, compared to alternatives 3.A and 3.C. However, by continuing to restrict landings to the annual commercial quota, which is based on the best available science and is intended to prevent overfishing, and by continuing to address incidental catch of other species through AMs, overall, alternative 3.B is expected to have positive impacts on scup and non-target species.

7.1.3.3. Impacts of Alternative 3.C (Move May 1-15 to the Winter I Quota Period, Move October to the Winter II Quota Period, and Modify the Beginning and End Dates of the Winter I and Summer Quota Counting Procedures) on Scup and Non-Target Species

Alternative 3.C is identical to alternative 3.A (the impacts of which are described in section 7.1.2) except that the quota counting procedures described in section 4.2 and at 50 CFR 648.123(a)(2)(iv) would be modified such that, in certain circumstances, state-only permit holders fishing in state waters could land scup during May 1-15 if the Winter I fishery is otherwise closed (as opposed to April 15-30 under alternative 3.A and April 15 – May 15 under alternative 3.B). Both alternatives 3.A and 3.C would allow for landings by certain vessels during up to two weeks when landings would otherwise be prohibited. Alternatives 3.A and 3.C are expected to have identical impacts on scup and non-target species. For the reasons described in section 7.1.3.1, alternative 3.C is expected to have positive impacts on scup and non-target species. These impacts are expected to be more positive than the impacts of alternative 3.B (section 7.3.3.2).

7.2. Socioeconomic Impacts of the Alternatives

All the alternatives will continue to ensure that the commercial quota is not fully harvested early in the year and that vessels fishing in the winter (typically larger vessels) and vessels fishing in the summer (typically smaller vessels) have access to quota. In this way, they are all expected to have some positive socioeconomic impacts. They are expected to result in slight differences in the timing of landings throughout the year. The expected socioeconomic impacts resulting from these slight differences are described in the following sections. When ranked in terms of their socioeconomic impacts, alternative 3.B is expected to have the most positive impacts, followed by alternatives 3.C, 3.A, 3, and 1.

7.2.1. Socioeconomic Impacts of Alternative 1 (No Action)

Under alternative 1, no changes would be made to the management measures associated with the commercial scup quota periods.

In recent years, more vessels have landed scup during the summer than during the winter (Figure 21). A higher proportion of smaller vessels landed scup in the summer than during the winter (Figure 22). To the extent that the quota period regulations may have allowed for continued participation by these smaller vessels in the summer months, they may have had positive socioeconomic impacts. Maintaining these regulations would have continued positive socioeconomic impacts, especially in years of low quotas.

From 2011 through 2016, commercial scup landings were 20-47% below the annual commercial quota (Table 5). Some advisors have said that the lower possession limits during the Summer period, compared to during the Winter I and Winter II periods (Table 2 and Table 4), prevented

higher landings of scup when they were available and that this was partly why landings have been below the annual quota. To the extent that the quota period regulations have restricted landings (and thus, revenues), they may have had slight negative socioeconomic impacts.

Overall, the commercial scup quota period regulations have had slight, but mixed (i.e. both positive and negative) socioeconomic impacts. By leaving these regulations unchanged, alternative 1 would have continued mixed socioeconomic impacts.

7.2.2. Socioeconomic Impacts of Alternative 2 (Move October to the Winter II Quota Period)

Under alternative 2, the month of October would become part of the Winter II quota period, as opposed to the Summer period under the no action alternative (alternative 1). All other regulations, including the allocations, quota rollover provisions, and possession limits would remain unchanged (section 5.2).

Alternative 2 would continue to help ensure that the commercial quota is spread throughout the year; thus, it will maintain some of the positive socioeconomic benefits associated with alternative 1 by helping to maintain access to quota for both larger offshore vessels and smaller inshore vessels, especially in years of low quota.

For the reasons described in section 7.1.2, commercial scup landings in October are expected to increase slightly under alternative 2, compared to the no action alternative (alternative 1). Landings are not expected to exceed the annual quota and are thus not expected to increase to the extent that the rebuilt status of the scup stock is threatened. This slight increase in landings is expected to lead to slightly increased revenues for fishermen and commercial fish dealers, and thus slight positive socioeconomic impacts.

The price of scup is generally inversely correlated with landings (i.e. the price tends to be lower when landings are higher). This relationship is not linear and many other factors also influence price; therefore, it is difficult to predict with confidence how the price could change under alternative 2. If an increase in landings during October results in a decrease in price, then the positive socioeconomic impacts of alternative 2 may be lesser in magnitude. Smaller vessels have a more limited ability to increase the volume of their landings to offset a decrease in price, compared to larger vessels; therefore, a decrease in price may have some negative impacts on smaller vessels, compared to larger vessels. In October 2011-2015, commercial fish dealers paid an average of $0.77 per pound of scup (Figure 25).

Although alternative 2 could result in a decrease in price compared to the no action alternative (alternative 1) and thus could have some negative impacts on smaller vessels, compared to larger vessels, overall it is expected to have slight positive socioeconomic impacts by allowing for increased landings and increased revenues for the commercial scup fishery as a whole.

7.2.3. Socioeconomic Impacts of Alternative 3 (Move May 1-15 to the Winter I Quota Period and Move October to the Winter II Quota Period)

Alternative 3 includes three sub-alternatives (alternatives 3.A-3.C). The socioeconomic impacts of those alternatives are summarized in the following sections.

7.2.3.1. Socioeconomic Impacts of Alternative 3.A (Move May 1-15 to the Winter I Quota Period, Move October to the Winter II Quota Period, and Take No Action on Winter I and Summer Quota Counting Procedures)

Under alternative 3.A, May 1-15 would become part of the Winter I quota period (as opposed to the Summer period under the no action alternative) and the month of October would become part of the Winter II quota period (as opposed to the Summer period under the no action alternative). The quota counting procedures described in section 4.2 and at 50 CFR 648.123(a)(2)(iv) would remain unchanged. These quota counting procedures allow for certain circumstances in which state-only permit holders fishing in state waters can land scup during April 15-30 if the Winter I fishery is otherwise closed. These provisions have never been used because the Winter I fishery has not prematurely closed since they were first implemented in 2003. If these measures were to be used, they would be expected to lead to slight positive socioeconomic impacts for certain permit holders because they would allow for landings (and revenues from those landings) by those permit holders in certain circumstances when landings would otherwise be prohibited.

For the reasons described in section 7.1.3, commercial scup landings are expected to increase under alternative 3.A compared to the no action alternative (alternative 1), and compared to alternative 2. Landings are expected to be slightly higher because the possession limit would increase for six weeks each year, compared to alternative 1, and for two more weeks than alternative 2. Thus, alternative 3.A is expected to lead to increased revenues and positive socioeconomic impacts compared to alternatives 1 and 2.

Landings are not expected to exceed the annual quota and are thus not expected to increase to the extent that the rebuilt status of the scup stock is threatened. As described in the previous section, if increased landings result in a decrease in price, then the positive socioeconomic impacts would be lesser in magnitude. As previously stated, this decrease in price could put smaller vessels at a disadvantage compared to larger vessels as they have less capacity to increase the volume of their landings to offset the decrease in price. In May 2011-2015, commercial fish dealers paid an average of $0.52 per pound of scup. The average price in October was $0.77 per pound (Figure 25). A variety of factors influence price; thus, it is difficult to predict with confidence how the price could change under alternative 3.A. Because alternative 3.A is expected to lead to a greater increase in landings compared to alternatives 1 and 2 it could lead to a greater decrease in price and could have greater negative impacts for small vessels, compared to larger vessels. However; alternative 3.A is expected to lead to increased landings and increased revenues for the

commercial fishery as a whole; therefore, overall, it is expected to have slight positive socioeconomic impacts compared to alternatives 1 and 2.

7.2.3.2. Socioeconomic Impacts of Alternative 3.B (Move May 1-15 to the Winter I Quota Period, Move October to the Winter II Quota Period, and Modify the End Dates of the Winter I and Summer Quota Counting Procedures)

Alternative 3.B is identical to alternative 3.A (the socioeconomic impacts of which are described in the previous section) except that the dates of the special quota counting procedures would be modified to April 15- May 15, as opposed to April 15-30 under alternative 3.A. Under alternative 3.B, this special quota counting procedure could be used during up to four weeks prior to the start of the Summer quota period (which would become May 16). For the same reasons as described in the previous section, alternative 3.B is expected to have slight positive socioeconomic impacts because it is expected to lead to slightly increased landings and revenues for the fishery as a whole. The positive impacts of alternative 3.B are expected to be slightly greater in magnitude than alternatives 3.A and 3.C because it would allow for landings (and thus revenues) over up to four weeks (compared to two weeks under alternatives 3.A and 3.C) by certain vessels in certain circumstances when landings would otherwise be prohibited.

7.2.3.3. Socioeconomic Impacts of Alternative 3.C (Move May 1-15 to the Winter I Quota Period, Move October to the Winter II Quota Period, and Modify the Beginning and End Dates of the Winter I and Summer Quota Counting Procedures)

Alternative 3.C is identical to alternative 3.A (the socioeconomic impacts of which are described in section 0) except that the dates of the special quota counting procedures would be modified to May 1-15, as opposed to April 15-30 under alternative 3.A. Under alternative 3.C, this quota counting procedure could be used during two weeks prior to the start of the Summer quota period (which would become May 16). The length of the period for the special quota counting procedure would be two weeks under both alternatives 3.A and 3.C. Alternative 3.C is expected to have identical socioeconomic impacts as alternative 3.A (i.e. slight positive impacts; section 7.2.3.1). The differences between alternatives 3.A and 3.C are largely administrative in nature and are thus expected to result in negligible differences in socioeconomic impacts.

7.3. Impacts of the Alternatives on Protected Species

The following sections summarize the expected impacts of the alternatives on protected species. When ranked in terms of their expected impacts, alternative 3.B has the highest potential for negative impacts on protected species, followed by alternatives 3.A, 3.C, 3, and 1.

7.3.1. Impacts of Alternative 1 (No Action) on Protected Species

Under alternative 1, no changes would be made to the management measures associated with the commercial scup quota periods. Alternative 1 is not expected to result in a change in fishing

effort, areas fished, or gear types used, compared to recent patterns of fishing effort; therefore, it is not expected to change the impacts of the commercial scup fishery on protected species. The commercial scup fishery has some negative impacts on protected species due to gear interactions that can harm protected species. These negative impacts are expected to continue at recent levels under alternative 1. Recent levels of impacts are not expected to jeopardize any protected species; therefore, the impacts of alternative 1 on protected species are expected to be slight (as opposed to moderate or high) negative.

7.3.2. Impacts of Alternative 2 (Move October to the Winter II Quota Period) on Protected Species

Under alternative 2, October would become part of the Winter II quota period, as opposed to the Summer period under the no action alternative (alternative 1). All other regulations, including the allocations, quota rollover provisions, and possession limits would remain unchanged (section 5.2).

For the reasons described in section 7.1.2, alternative 2 is expected to lead to a slight increase in fishing effort in October, compared to the no action alternative (alternative 1). An increase in fishing effort could lead to an increase in interactions between fishing gear and protected species. It possible that this increase in effort could be greater for certain gear types than others. For example, fishermen using bottom trawls may be better able to take advantage of the increased possession limit than pot/trap or hook and line fishermen. It is difficult to predict with certainty how fishing effort from each gear type may change under alternative 2. Overall, because it is expected to lead to a slight increase in fishing effort, alternative 2 is expected to have slight negative impacts on protected species, compared to the no action alternative. This increase in interactions is not expected to be great enough to jeopardize any protected species as the quota period allocations and annual quota would continue to restrict fishing effort to levels previously considered in consultations on fishing impacts on protected species.

7.3.3. Impacts of Alternative 3 (Move May 1-15 to the Winter I Quota Period and Move October to the Winter II Quota Period) on Protected Species

Alternative 3 includes three sub-alternatives (alternatives 3.A-3.C). The impacts of those alternatives on protected species are summarized in the following sections.

7.3.3.1. Impacts of Alternative 3.A (Move May 1-15 to the Winter I Quota Period, Move October to the Winter II Quota Period, and Take No Action on Winter I and Summer Quota Counting Procedures) on Protected Species

Under alternative 3.A, May 1-15 would become part of the Winter I quota period (as opposed to the Summer period under the no action alternative) and October would become part of the Winter II quota period (as opposed to the Summer period under the no action alternative). The

quota counting procedures described in section 4.2 and at 50 CFR 648.123(a)(2)(iv) would remain unchanged.

For the reasons described in section 7.1.3, under alternative 3.A fishing effort for scup is expected to increase during May 1-15 and October compared to alternative 1 and during May 1-15 compared to alternative 2. An increase in fishing effort could lead to an increase in interactions between fishing gear and protected species. It possible that this increase could be greater for certain gear types than others. For example, fishermen using bottom trawls may be better able to take advantage of the increased possession limit than pot/trap or hook and line fishermen. It is difficult to predict with certainty how fishing effort from each gear type may change under alternative 3.A. Overall, alternative 3.A is expected to have slight negative impacts on protected species, compared to alternatives 1 and 2. This increase in interactions is not expected to be great enough to jeopardize any protected species as the period and annual quotas would continue to restrict fishing effort to levels previously considered in consultations on fishing impacts on protected species.

7.3.3.2. Impacts of Alternative 3.B (Move May 1-15 to the Winter I Quota Period, Move October to the Winter II Quota Period, and Modify the End Dates of the Winter I and Summer Quota Counting Procedures) on Protected Species

Alternative 3.B is identical to alternative 3.A (the impacts of which are described in the previous section) except that the dates of the special quota counting procedures would be modified to April 15- May 15, as opposed to April 15-30 under alternative 3.A. Under alternative 3.B, this special quota counting procedure could be used during up to four weeks prior to May 16 (compared to up two weeks under alternatives 3.A and 3.C). For the reasons described in section 7.1.3.2, alternative 3.B could allow for slightly increased fishing effort compared to all the other alternatives, though this increase would be very slight compared to alternatives 3.A and 3.C. For the same reasons as described in the section 7.3.3.1, alternative 3.B is expected to have slight negative impacts on protected species. This increase in interactions, though difficult to predict quantitatively, is not expected to be great enough to jeopardize any protected species as the period and annual quotas will continue to restrict fishing effort to levels previously considered in consultations on fishing impacts on protected species.

7.3.3.3. Impacts of Alternative 3.C (Move May 1-15 to the Winter I Quota Period, Move October to the Winter II Quota Period, and Modify the Beginning and End Dates of the Winter I and Summer Quota Counting Procedures) on Protected Species

Alternative 3.C is identical to alternative 3.A (the impacts of which are described in section 7.3.3.1) except that the dates of the special quota counting procedures would be modified to May 1-15, as opposed to April 15-30 under alternative 3.A. The differences between alternatives 3.A and 3.C are largely administrative in nature; thus, the expected impacts of alternative 3.C on

protected species are identical to those of alternative 3.A (i.e. slight negative impacts; section 7.3.3.1).

7.4. Impacts of the Alternatives on Physical Habitat

The following sections summarize the expected impacts of the alternatives on physical habitat. When ranked in terms of their impacts on physical habitat, alternative 3.B is expected to have the most negative impacts, followed by alternatives 3.C, 3.A, 2, and 1.

7.4.1. Impacts of Alternative 1 (No Action) on Physical Habitat

Under alternative 1, no changes would be made to the management measures associated with the commercial scup quota periods. A variety of factors influence fishing effort, including the quota period allocations and possession limits, as well as other factors such as the overall annual quota and the price and availability of scup and other targeted species. To the extent that the commercial scup quota period regulations have restricted fishing effort, they have also limited the potential for interactions between fishing gear and physical habitat. Alternative 1 is not expected to change fishing effort compared to recent levels. Fishing effort would be expected to continue at recent levels in areas that have been impacted by the scup fishery, and by other fisheries for decades. This continued level of fishing effort is not expected to result in additional negative impacts to these habitats that are already regularly impacted by fishing gear. For these reasons, alternative 1 is expected to have neutral impacts on physical habitat.

7.4.2. Impacts of Alternative 2 (Move October to the Winter II Quota Period) on Physical Habitat

Under alternative 2, October would become part of the Winter II quota period, as opposed to the Summer period under the no action alternative (alternative 1). All other regulations, including the allocations, quota rollover provisions, and possession limits would remain unchanged (section 5.2).

For the reasons described in section 7.1.2, alternative 2 is expected to lead to a slight increase in fishing effort for scup, compared to the no action alternative (alternative 1). An increase in fishing effort could lead to an increase in interactions between fishing gear and physical habitat; therefore, alternative 2 is expected to have slight negative impacts on physical habitat, compared to the no action alternative. These impacts are expected to be minor because they would occur during one month of the year and fishing effort would still be restricted by the annual quota, the seasonal period quotas, and the possession limits. In addition, this increase in effort is expected to occur in areas that are already impacted by the commercial scup fishery and other fisheries year-round.

7.4.3. Impacts of Alternative 3 (Move May 1-15 to the Winter I Quota Period and Move October to the Winter II Quota Period) on Physical Habitat

Alternative 3 includes three sub-alternatives (alternatives 3.A-3.C). The impacts of those alternatives on physical habitat are summarized in the following sections.

7.4.3.1. Impacts of Alternative 3.A (Move May 1-15 to the Winter I Quota Period, Move October to the Winter II Quota Period, and Take No Action on Winter I and Summer Quota Counting Procedures) on Physical Habitat

Under alternative 3.A, May 1-15 would become part of the Winter I quota period (as opposed to the Summer period under the no action alternative) and October would become part of the Winter II quota period (as opposed to the Summer period under the no action alternative). The quota counting procedures described in section 4.2 and at 50 CFR 648.123(a)(2)(iv) would remain unchanged.

For the reasons described in section 7.1.3, fishing effort is expected to slightly increase under alternative 3.A, compared to the no action alternative (alternative 1) and alternative 2. An increase in fishing effort could lead to an increase in interactions between fishing gear and physical habitat; therefore, alternative 3.A is expected to have slight negative impacts on physical habitat, compared to alternatives 1 and 2. These impacts are expected to be minor because they would occur during six weeks of the year and fishing effort would still be restricted by the annual quota, the seasonal period quotas, and the possession limits. In addition, this increase in effort is expected to occur in areas that are already impacted by the scup fishery and other fisheries year-round.

7.4.3.2. Impacts of Alternative 3.B (Move May 1-15 to the Winter I Quota Period, Move October to the Winter II Quota Period, and Modify the End Dates of the Winter I and Summer Quota Counting Procedures) on Physical Habitat

Alternative 3.B is identical to alternative 3.A (the impacts of which are described in the previous section) except that the dates of the special quota counting procedures would be modified to April 15- May 15, as opposed to April 15-30 under alternative 3.A. Under alternative 3.B, this special quota counting procedure could be used during up to four weeks, as opposed to two weeks under alternatives 3.A and 3.C. For the reasons described in section 7.1.3.2, alternative 3.B could allow for slightly increased fishing effort and thus slight negative impacts to physical habitat compared to all the other alternatives. These impacts are expected to be minor because they would occur during six weeks of the year and fishing effort would still be restricted by the annual quota, the seasonal period quotas, and the possession limits. In addition, this increase in effort is expected to occur in areas that are already impacted by the scup fishery and other fisheries year-round.

7.4.3.3. Impacts of Alternative 3.C (Move May 1-15 to the Winter I Quota Period, Move October to the Winter II Quota Period, and Modify the Beginning and End Dates of the Winter I and Summer Quota Counting Procedures) on Physical Habitat

Alternative 3.C is identical to alternative 3.A (the impacts of which are described in section 7.4.3.1) except that the dates of the special quota counting procedures would be modified to May 1-15, as opposed to April 15-30 under alternative 3.A. For the reasons described in section 7.1.3.3, alternative 3.C is expected to have identical impacts on fishing effort as alternative 3.A; therefore, it is expected to have identical impacts on physical habitat (i.e. slight negative impacts; section 7.4.3.1).

7.5. Cumulative Effects

A cumulative effects analysis is required by the Council on Environmental Quality (CEQ; 40 CFR part 1508.7). The purpose of cumulative effects analysis is to consider the combined effects of many actions on the human environment over time that would be missed if each action were evaluated separately. CEQ guidelines recognize that it is not practical to analyze the cumulative effects of an action from every conceivable perspective; rather, the intent is to focus on those effects that are truly meaningful. A formal cumulative impact assessment is not required as part of an environmental assessment under NEPA if the significance of cumulative impacts have been considered (U.S. EPA 1999). The following sections address the significance of the expected cumulative impacts as they relate to the VECs considered in this document.

7.5.1. Consideration of the VECs

This section summarizes the significance of cumulative effects on the four VECs:

- Scup and non-target species
- Human communities
- Protected species
- Physical habitat

7.5.2. Geographic Boundaries

In a broad sense, the western North Atlantic Ocean is the core geographic scope for the VECs. The core geographic scope for the managed species, including managed non-target species, are their associated management units (e.g. state and federal waters from Maine to Cape Hatteras, North Carolina, for scup). For habitat, the core geographic scope is focused on EFH within the EEZ but includes all habitat utilized by scup and non-target species in the Western Atlantic Ocean. The core geographic scope for protected species is the range of those species in the Western Atlantic Ocean. For human communities, the core geographic boundaries are defined as those U.S. fishing communities directly involved in the harvest or processing of scup in coastal states from Maine through North Carolina (section 6.2).

7.5.3. Temporal Boundaries

The temporal scope of past and present actions which impact the VECs is primarily focused on actions that occurred after 1996, when the Council added scup to the Summer Flounder FMP. For protected species, the scope of past and present actions is on a species-by-species basis (section 6.3) and is largely focused on the 1980s and 1990s (when NMFS began generating stock assessments for marine mammals and sea turtles that inhabit waters of the U.S. EEZ) through the present. The temporal scope of future actions for all VECs extends about three years (2020) into the future. The dynamic nature of resource management for scup and non-target species and lack of information on projects that may occur in the future make it difficult to predict impacts beyond this timeframe with any certainty.

7.5.4. Actions other than Those Considered in this Document

The impacts of the alternatives considered in this document are described in section 7.

Table 10 summarizes meaningful past, present, or reasonably foreseeable future actions which may impact the VECs in addition to the alternatives considered in this document.

Table 10 also includes qualitative descriptions of the impacts of those actions. Impacts of these actions are too complex to be quantified in a meaningful way.

The MSA is the statutory basis for Federal fisheries management. The past and ongoing management practices of the Mid-Atlantic Council have generally resulted in positive impacts on the health of the managed stocks. The Council has taken numerous actions to manage these fisheries through amendments and framework adjustments, examples of which are listed in

Table 10. For example, the specifications process for setting ACLs, as required by the MSA, provides the opportunity for the Council and NMFS to regularly assess the status of managed fisheries (including the scup fisheries) and to make necessary adjustments to ensure a reasonable expectation of meeting the objectives of the FMPs.

The cumulative impacts of past, present, and reasonably foreseeable future Federal fishery management actions on the VECs are expected to result in long-term sustainability of the managed stocks. These actions should, in the long-term, promote positive impacts on human communities, especially those communities that are economically dependent on the managed stocks. Many past fishery management actions resulted in reduced fishing effort and/or reduced impacts of fishing through access limitation, vessel upgrade restrictions, area and gear restrictions, EFH designations, AMs, and other measures. These measures benefitted the managed species, non-target species, protected species, and habitat. Human communities benefited in the long term from the continued productivity of managed stocks; however, some of these measures caused short-term negative economic impacts (

Table 10).

Non-fishing activities such as climate change, point and non-point source pollution, shipping, dredging, storm events, and other factors affect the physical and biological dimensions of the environment. Many of these non-fishing activities are widespread, can have localized impacts to habitat, and have resulted in habitat loss for some species. Such activities include at-sea disposal of sediments and other materials, oil and mineral resource exploration, aquaculture, installation of wind turbines, bulk transportation of petrochemicals, and other activities, as well as natural events such as storms. Activities that introduce chemical pollutants, sewage, or suspended sediments into the marine environment, or result in changes in water temperature, salinity, or dissolved oxygen all pose risks to the VECs.

Some non-fishing human activities such as agriculture, port maintenance, beach nourishment, coastal development, marine transportation, marine mining, dredging and the disposal of dredged material tend to be localized in nearshore areas and marine project areas where they occur. Wherever multiple activities co-occur, they can work additively or synergistically to decrease habitat quality and may indirectly impact the sustainability of the managed species, non-target species, and protected species. Decreased habitat suitability tends to reduce the tolerance of these species to the impacts of fishing effort. Impacts to the affected species and their habitats on a population level are generally minor since many of these species have limited or minor exposure to these local non-fishing perturbations. Mitigation through regulations that reduce fishing effort can negatively impact human communities.

Federal agencies wishing to conduct various types of non-fishing activities must examine the potential impacts on the VECs. The MSA (50 CFR 600.930) imposes an obligation on other Federal agencies to consult with the Secretary of Commerce on actions that may adversely affect EFH. The eight regional fishery management councils are engaged in this review process by submitting comments and recommendations on any Federal or state action that may affect habitat, including EFH, for managed species. NMFS also reviews impacts of certain activities regulated by Federal, state, and local authorities as required by section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act.

In addition, under the Fish and Wildlife Coordination Act (section 662), “whenever the waters of any stream or other body of water are proposed or authorized to be impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage, by any department or agency of the U.S., or by any public or private agency under federal permit or license, such department or agency first shall consult with the U.S. Fish and Wildlife Service (USFWS), Department of the Interior, and with the head of the agency exercising administration over the wildlife resources of the particular state wherein the” activity is taking place. This act provides another avenue for review of actions by other Federal and state agencies that may impact species that NMFS and the Councils manage.

NMFS and the USFWS share responsibility for implementing the ESA. The ESA requires NMFS to designate critical habitat and to develop and implement recovery plans for threatened and endangered species. Critical habitat includes areas that contain physical or biological features essential to the conservation of protected species, which may require special management considerations or protection. The ESA provides an avenue for NMFS to review actions by other entities that may impact endangered and protected species whose management units are under the jurisdiction of NMFS.

7.5.4.1. Climate Change

Each VEC is impacted to some degree by global climate change. Climate shifts may alter the pattern and strength of ocean currents; change the rate of freshwater inflows; influence water temperature, acidity, and salinity; and have other impacts. These changes affect the physical environment directly, which in turn may shape the suitability of local habitats for marine species. Changes in the abundance and distribution of marine species will affect fishing communities. For example, if a species important to a particular community declines in abundance or shifts in distribution due to environmental factors, that community may experience negative impacts. Positive impacts could occur if the abundance of targeted species increases. The direct impacts to the VECs will vary and are associated with some uncertainty.

NMFS scientists developed an assessment of the climate vulnerability of 82 fish and invertebrate species in the northeast region. The authors found that "the overall climate vulnerability is high to very high for approximately half the species assessed; diadromous and benthic invertebrate species exhibit the greatest vulnerability. In addition, the majority of species included in the assessment have a high potential for a change in distribution in response to projected changes in climate. Negative effects of climate change are expected for approximately half of the species assessed, but some species are expected to be positively affected (e.g., increase in productivity or move into the region)" (Hare et al. 2016). Scup were determined to have a moderate vulnerability to climate change. Scup have a high exposure to the effects of climate change because early life stages are typically found in coastal, nearshore waters, and adults seasonally migrate between inshore and offshore waters. However, because they are mobile and are "habitat generalists", scup may be able to shift their distribution in response to changing temperatures and other factors related to climate change.

Table 10: Impacts of past (P), present (Pr), and reasonably foreseeable future (RFF) actions, not including those actions considered in this document, on the VECs.

Action	Description	Impacts on Scup and Non-Target Species	Impacts on Human Communities	Impacts on Protected Species	Impacts on Habitat and EFH
P, Pr Original FMPs and subsequent FMP Amendments and Frameworks	Established commercial and recreational management measures	**Indirect Positive** Regulatory tool to rebuild and manage stocks and regulate fishing effort	**Indirect Positive** Benefited domestic businesses	**Indirect Positive** Reduced fishing effort; implemented gear requirements	**Indirect Positive** Reduced fishing effort; implemented gear requirements
P, Pr, RFF Specifications for managed resources	Establish quotas, recreational harvest limits, and other fishery regulations	**Indirect Positive** Regulatory tool to specify catch limits, and other regulations in response to annual stock updates	**Indirect Positive** Benefited domestic businesses	**Indirect Positive** Regulate fishing effort	**Indirect Positive** Regulate fishing effort
P, Pr, RFF Standardized Bycatch Reporting Methodology	Established acceptable level of precision and accuracy for monitoring of bycatch in fisheries	**Neutral** May improve data quality for monitoring total removals	**Uncertain – Likely Indirect Negative** May impose an inconvenience on vessel operations	**Neutral** Will not affect fishing effort or fishing gears used	**Neutral** Will not affect fishing effort or fishing gears used
P, Pr, RFF Agricultural runoff	Nutrients applied to agricultural land are introduced into aquatic systems	**Indirect Negative** Reduced habitat quality	**Indirect Negative** Reduced habitat quality can lead to reduced abundances of target species	**Indirect Negative** Reduced habitat quality	**Direct Negative** Reduced habitat quality
P, Pr, RFF Port maintenance	Dredging of coastal, port and harbor areas for port maintenance	**Uncertain – Likely Indirect Negative** Dependent on mitigation effects	**Uncertain – Likely Mixed** Dependent on mitigation effects	**Direct and Indirect Negative** Potential interactions with protected species; reduced habitat quality/availability; dependent on mitigation efforts	**Uncertain – Likely Direct Negative** Dependent on mitigation effects

Action	Description	Impacts on Scup and Non-Target Species	Impacts on Human Communities	Impacts on Protected Species	Impacts on Habitat and EFH
P, Pr, RFF Beach nourishment	Offshore mining of sand for beaches and placement of sand to nourish beach shorelines	**Indirect Negative** Localized decreases in habitat quality	**Mixed** Positive for mining companies, tourism; possibly negative for fishing industry if reduced landings result from reduced availability because of negative habitat impacts	**Direct and Indirect Negative** Reduced habitat quality; dredge interactions; dependent on mitigation efforts	**Direct Negative** Reduced habitat quality
P, Pr, RFF Marine transportation	Expansion of port facilities, vessel operations and recreational marinas	**Indirect Negative** Localized decreases in habitat quality	**Mixed** Positive for some interests, potential displacement for others	**Direct and Indirect Negative** Reduced habitat quality/availability; potential for interactions (ship strikes) with protected species	**Direct Negative** Reduced habitat quality
P, Pr, RFF Offshore disposal of dredged materials	Disposal of dredged materials	**Indirect Negative** Reduced habitat quality	**Indirect Negative** Reduced habitat quality can lead to decreased abundance of target species	**Indirect Negative** Reduced habitat quality; dependent on mitigation efforts	**Direct Negative** Reduced habitat quality
P, Pr, RFF Deep Sea Corals Amendment to the Mackerel, Squid, and Butterfish FMP	Prohibits the use of bottom-tending gear in certain areas known or highly likely to contain deep sea corals.	**Direct Positive** Fishing effort and gear restrictions may result in increased productivity	**Mixed** Negative impacts to fishermen who previously used bottom-tending gear in protected areas; positive impacts due to potential increased productivity of some target species.	**Uncertain, likely mixed** Possible reduced gear interactions in protected areas, but impacts depend on how/where effort is shifted	**Direct Positive** Reduced gear impacts in protected areas

Action	Description	Impacts on Scup and Non-Target Species	Impacts on Human Communities	Impacts on Protected Species	Impacts on Habitat and EFH
RFF Unmanaged Forage Omnibus Amendment	Restricts landings and fishing effort in Mid-Atlantic Federal waters of over 50 previously unmanaged forage species	**Indirect Positive** Will reduce fishing mortality for a variety of prey species	**Mixed** Positive impacts from maintaining prey for target species. Negative impacts for fishermen who already harvest unmanaged forage species in high volumes.	**Indirect Positive** Will help to maintain prey base for several protected species.	**Neutral** Is not likely to result in a substantial change in fishing effort.
RFF Convening of Take Reduction Teams (periodically)	Recommend measures to reduce mortality and injury to marine mammals and sea turtles	**Indirect Positive** Reducing availability of gear could reduce bycatch	**Indirect Negative** Reducing availability of gear could reduce revenues	**Indirect Positive** Reducing availability of gear could reduce gear impacts	**Indirect Positive** Reducing availability of gear could reduce gear impacts

7.5.5. Magnitude and Significance of Cumulative Effects

In determining the magnitude and significance of the cumulative effects, the additive and synergistic effects of the proposed action, as well as past, present, and future actions, must be taken into account. The following section describes the expected effects of these actions on each VEC.

7.5.5.1. Magnitude and Significance of Cumulative Effects on Scup and Non-Target Species

Those past, present, and reasonably foreseeable future actions which may impact scup and non-target species, and the direction of those impacts, are summarized in Table 11. The indirectly negative actions described in Table 11 are localized in nearshore and marine areas where the projects occur; therefore, the magnitude of those impacts on the managed species is expected to be limited due to limited exposure to the populations at large. Agricultural runoff may be much broader in scope and the impacts of nutrient inputs to the coastal system may be larger in magnitude; however, the impact on productivity of the managed species is not quantifiable.

NMFS has several means under which it can review non-fishing actions of other federal or state agencies that may impact NMFS' managed resources prior to permitting or implementation of those projects. This serves to minimize the extent and magnitude of indirect negative impacts those actions could have on resources under NMFS' jurisdiction.

Past fishery management actions taken through the respective FMPs and the annual specifications process have had a positive cumulative effect on the managed species. It is anticipated that the future management actions described in Table 11 will have additional indirect positive effects on the managed resources through actions which reduce and monitor bycatch, protect habitat, and protect the ecosystem services on the productivity of managed species depends. Overall, the past, present, and reasonably foreseeable future actions that are truly meaningful to scup and non-target species have had positive cumulative effects.

Catch limits, commercial quotas and recreational harvest limits for each of the managed species have been specified to ensure that these stocks are managed sustainably and that measures are consistent with FMP objectives under the guidance of the MSA. The impacts of annual specification of management measures are largely dependent on how effective those measures are in meeting the objectives of preventing overfishing and achieving optimum yield, and on the extent to which mitigating measures are effective. The proposed actions described in this document would positively reinforce the past and anticipated positive cumulative effects on the managed species by achieving the objectives specified in the respective FMPs. Therefore, the proposed action would not have any significant effect on managed species individually or in conjunction with other anthropogenic activities (Table 11).

Table 11: Summary of the effects of past, present, and reasonably foreseeable future actions on scup and non-target species.

Action	Past to Present	Reasonably Foreseeable Future
Original FMPs and subsequent amendments and frameworks	Indirect Positive	
Annual specifications	Indirect Positive	
Standardized Bycatch Reporting Methodology	Neutral	
Agricultural runoff	Indirect Negative	
Port maintenance	Likely Indirect Negative	
Beach nourishment – offshore sand mining	Indirect Negative	
Beach nourishment – sand placement	Indirect Negative	
Marine transportation	Indirect Negative	
Offshore disposal of dredged materials	Indirect Negative	
Renewable & non-renewable offshore & nearshore energy development	Likely Indirect Negative	
Deep Sea Corals Amendment		Direct Positive
Unmanaged Forage Omnibus Amendment		Indirect Positive
Convening Gear Take Reduction Teams (periodically)		Indirect Positive
Summary of past, present, and future actions, excluding those proposed in this document	Overall, actions have had or will have positive impacts on scup and non-target species	

7.5.5.2. Magnitude and Significance of Cumulative Effects on Human Communities

Those past, present, and reasonably foreseeable future actions which may impact human communities and the direction of those potential impacts are summarized in

Table 12. The indirectly negative actions described in Table 12 are localized in nearshore areas and marine project areas where they occur; therefore, the magnitude of those impacts on human

communities is expected to be limited in scope. Those actions may displace fishermen from project areas. Agricultural runoff may be much broader in scope, and the impacts of nutrient inputs to the coastal ecosystem may larger in magnitude. This may result in indirect negative impacts on human communities by reducing resource availability; however, this effect is not quantifiable.

NMFS has several means under which it can review non-fishing actions of other Federal or state agencies prior to permitting or implementation of those projects. This serves to minimize the extent and magnitude of indirect negative impacts those actions could have on human communities.

Past fishery management actions taken through the respective FMPs and the annual specifications process have had both positive and negative cumulative effects by benefiting domestic fisheries through sustainable fishery management practices while also sometimes reducing the availability of the resource to fishery participants. Sustainable management practices are, however, expected to yield broad positive impacts to fishermen, their communities, businesses, and the nation as a whole. It is anticipated that the future management actions described in Table 12 will result in positive effects for human communities due to sustainable management practices, although additional indirect negative effects on the human communities could occur if management actions result in reduced revenues. Overall, the past, present, and reasonably foreseeable future actions that are truly meaningful to human communities have had overall positive cumulative effects.

Catch limits, commercial quotas, and recreational harvest limits for managed species have been specified to ensure that these stocks are managed in a sustainable manner and that management measures are consistent with the objectives of the FMPs under the guidance of the MSA. The impacts on the managed species are largely dependent on how effective those measures are in meeting their intended objectives and the extent to which mitigating measures are effective.

Overages may alter the timing of commercial fishery revenues such that revenues can be realized a year earlier. Impacts to some fishermen may be caused by unexpected reductions in their opportunities to earn revenues from commercial fisheries in the year during which the overages are deducted. Similarly, recreational fisheries may have decreased harvest opportunities due to reduced harvest limits because of overages and more restrictive management measures (e.g. minimum fish size, possession limits, fishing seasons) implemented to address overages.

Despite the potential for negative short-term impacts on human communities, positive long-term impacts are expected due to the long-term sustainability of the managed stocks. Overall, the proposed actions described in this document would not change the past and anticipated cumulative effects on human communities and thus, would not have any significant effect on human communities individually, or in conjunction with other anthropogenic activities (Table 12).

Table 12: Summary of the effects of past, present, and reasonably foreseeable future actions on human communities.

Action	Past to Present	Reasonably Foreseeable Future
Original FMPs and subsequent amendments and frameworks	Indirect Positive	
Annual specifications	Indirect Positive	
Standardized Bycatch Reporting Methodology	Likely Indirect Negative	
Agricultural runoff	Indirect Negative	
Port maintenance	Uncertain – Likely Mixed	
Beach nourishment – offshore sand mining	Mixed	
Beach nourishment – sand placement	Positive	
Marine transportation	Mixed	
Offshore disposal of dredged materials	Indirect Negative	
Renewable & non-renewable offshore & nearshore energy development	Likely Mixed	
Deep Sea Corals Amendment		Mixed
Unmanaged Forage Omnibus Amendment		Mixed
Convening Gear Take Reduction Teams (periodically)		Indirect Negative
Summary of past, present, and future actions, excluding those proposed in this document	Overall, actions have had, or will have, positive impacts on human communities.	

7.5.5.3. Magnitude and Significance of Cumulative Effects on Protected Species

Those past, present, and reasonably foreseeable future actions which may impact protected species, and the direction of those impacts, are summarized in Table 13. The indirectly negative actions described in Table 13 are localized in nearshore and marine project areas where they occur; therefore, the magnitude of those impacts on protected species is expected to be limited due to limited exposure of the populations at large. Agricultural runoff may be much broader in

scope and the impacts of nutrient inputs to the coastal system may be larger in magnitude; however, the impact on protected species is not quantifiable.

NMFS has several means under which it can review non-fishing actions of other Federal or state agencies that may impact protected species prior to permitting or implementation of those projects. This serves to minimize the extent and magnitude of indirect negative impacts those actions could have on protected species under NMFS' jurisdiction.

Past fishery management actions taken through the respective FMPs and the annual specifications process have had positive cumulative effects on protected species through the reduction of fishing effort (and thus reduction in potential interactions) and implementation of gear requirements. It is anticipated that the future management actions described in Table 13 will result in additional indirect positive effects on protected species. These impacts could be broad in scope. Overall, the past, present, and reasonably foreseeable future actions that are truly meaningful to protected species have had positive cumulative effects.

The proposed actions described in this document would not change the past and anticipated cumulative effects on protected species and thus would not have any significant effect on protected species individually or in conjunction with other anthropogenic activities (Table 13).

Table 13: Summary of the effects of past, present, and reasonably foreseeable future actions on protected species.

Action	Past to Present	Reasonably Foreseeable Future
Original FMP and subsequent amendments and frameworks	Indirect Positive	
Annual specifications	Indirect Positive	
Standardized Bycatch Reporting Methodology	Neutral	
Agricultural runoff	Indirect Negative	
Port maintenance	Likely Indirect Negative	
Beach nourishment – offshore sand mining	Indirect Negative	
Beach nourishment – sand placement	Indirect Negative	
Marine transportation	Indirect Negative	
Offshore disposal of dredged materials	Indirect Negative	
Renewable & non-renewable offshore & nearshore energy development	Likely Direct Negative	
Deep Sea Corals Amendment		Likely mixed
Unmanaged Forage Omnibus Amendment		Indirect Positive
Convening Gear Take Reduction Teams (periodically)		Indirect Positive

Summary of past, present, and future actions, excluding those proposed in this document	Overall, actions have had, or will have, positive impacts on protected species

7.5.5.4. Magnitude and Significance of Cumulative Effects on Physical Habitat

Those past, present, and reasonably foreseeable future actions which may impact habitat, and the direction of those potential impacts, are summarized in Table 14. The direct and indirect negative actions described in Table 14 are localized in nearshore and marine project areas where they occur; therefore, the magnitude of those impacts on habitat is expected to be limited due to limited exposure of habitat at large. Agricultural runoff may be much broader in scope and the impacts of nutrient inputs to the coastal system may be larger in magnitude; however, the impact on habitat is not quantifiable.

NMFS has several means under which it can review non-fishing actions of other Federal or state agencies that may impact NMFS' managed resources and the habitat on which they rely prior to permitting or implementation of those projects. This serves to minimize the extent and magnitude of direct and indirect negative impacts those actions could have on habitat utilized by species under NMFS' jurisdiction.

Past fishery management actions taken through the respective FMPs and the annual specifications process have had positive cumulative effects on habitat. The actions have constrained fishing effort both at a large scale and locally and have implemented gear requirements which may have reduced impacts on habitat. EFH and Habitat Areas of Particular Concern were designated for the managed resources. It is anticipated that the future management actions described in Table 14 will result in additional direct or indirect positive effects on habitat through actions which protect EFH and protect ecosystem services on which these species' productivity depends. These impacts could be broad in scope.

All the VECs are interrelated; therefore, the linkages among habitat quality, managed species and non-target species productivity, and associated fishery yields should be considered. For habitat, there are direct and indirect negative effects from actions which may be localized or broad in scope; however, positive actions that have broad implications have been, and will likely continue to be, taken to improve the condition of habitat. Some actions, such as coastal population growth and climate change may indirectly impact habitat and ecosystem productivity; however, these actions are beyond the scope of NMFS and Council management. Overall, the past, present, and reasonably foreseeable future actions that are truly meaningful to habitat have had neutral to positive cumulative effects.

The proposed actions described in this document would not significantly change the past and anticipated cumulative effects on habitat and thus would not have any significant effect on habitat individually or in conjunction with other anthropogenic activities (Table 14).

Table 14: Summary of the effects of past, present, and reasonably foreseeable future actions on habitat and EFH.

Action	Past to Present	Reasonably Foreseeable Future
Original FMPs and subsequent amendments and frameworks	Indirect Positive	
Annual specifications	Indirect Positive	
Standardized Bycatch Reporting Methodology	Neutral	
Agricultural runoff	Direct Negative	
Port maintenance	Likely Direct Negative	
Beach nourishment – offshore sand mining	Direct Negative	
Beach nourishment – sand placement	Direct Negative	
Marine transportation	Direct Negative	
Offshore disposal of dredged materials	Direct Negative	
Renewable & non-renewable offshore & nearshore energy development	Likely Direct Negative	
Deep Sea Corals Amendment		Direct Positive
Unmanaged Forage Omnibus Amendment		Neutral
Convening Gear Take Reduction Teams (periodically)		Indirect Positive
Summary of past, present, and future actions, excluding those proposed in this document	Overall, actions have had or will have neutral to positive impacts on habitat	

7.5.5.5. Cumulative Effects of Proposed Action on all VECs

[To be completed after the Council selects preferred alternatives.]

8. Applicable Laws

8.1. Magnuson-Stevens Fishery Conservation and Management Act (MSA)

Section 301 of the MSA requires that FMPs contain conservation and management measures that are consistent with the ten National Standards. The Council continues to meet the obligations of National Standard 1 by adopting and implementing conservation and management measures that will continue to prevent overfishing, while achieving optimum yield for managed species and the U.S. fishing industry on a continuing basis. The Council uses the best scientific information available (National Standard 2). Specifically, this framework action was informed by fisheries-independent data from several surveys, commercial fishery landings data, stock assessments, and other scientific data sources. The Council manages scup throughout their range (National Standard 3). The management measures proposed in this framework do not discriminate among residents of different states (National Standard 4) and they do not have economic allocation as their sole purpose (National Standard 5). The measures account for variations in the fishery (National Standard 6), avoid unnecessary duplication (National Standard 7), take fishing communities into account (National Standard 8), and promote safety at sea (National Standard 10). The proposed actions are consistent with National Standard 9, which states that "conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent that bycatch cannot be avoided, minimize the mortality of such bycatch". By continuing to meet the National Standards requirements of the MSA through future FMP amendments, framework actions, and the annual specification setting process, the Council will insure that cumulative impacts of these actions will remain positive overall for the managed resources, the ports and communities that depend on these fisheries, and the Nation as a whole.

8.2. NEPA Finding of No Significant Impact (FONSI)

National Oceanic and Atmospheric Administration Administrative Order 216-6 (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action (i.e. the preferred alternatives). In addition, the CEQ regulations at 40 CFR §1508.27 state that the significance of an action should be analyzed both in terms of context and intensity. Each criterion listed below is relevant to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on NOAA Administrative Order 216-6 criteria and CEQ's context and intensity criteria. These include:

1) Can the proposed action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?

None of the alternatives proposed in this document are expected to jeopardize the sustainability of any target species affected by the action. Under all alternatives, scup landings would be restricted to the annual commercial quota, which is based on the best available science and is intended to prevent overfishing (section 7.1).

2) Can the proposed action reasonably be expected to jeopardize the sustainability of any non-target species?

None of the alternatives presented in this document are expected to jeopardize the sustainability of any non-target species. Alternatives 2 and 3 are expected to result in a slight increase in fishing effort during 2 and 6 weeks of the year, respectively; however, these changes are not expected to threaten non-target species. Catch of most of these species in the scup fishery is addressed through accountability measures which mitigate the negative impacts of that catch when necessary (sections **Error! Reference source not found.** and **Error! Reference source not found.**).

3) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in FMPs?

The proposed action is not expected to cause substantial damage to the ocean, coastal habitats, and/or EFH as defined under the MSA and identified in the respective FMPs. The proposed action could lead to a slight increase in fishing effort; however, adverse impacts to benthic habitats are not expected to be substantial (section 7.4) and are not expected to be beyond the scope previously identified for these fleets.

4) Can the proposed action be reasonably expected to have a substantial adverse impact on public health or safety?

None of the alternatives will significantly alter the manner in which the industry conducts fishing activities; therefore, no changes in fishing behavior that would affect safety are anticipated. The proposed action will not adversely impact public health or safety.

5) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species?

None of the alternatives presented in this document are expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of those species. Alternatives 2 and 3 are expected to result in a slight increase in fishing effort during 2 and 6 weeks of the year, respectively; however, these changes are not expected to threaten endangered or threatened species, marine mammals, or critical habitat of those species. Under all alternatives, fishing effort would continue to be restricted by the annual commercial quota (section 7.3).

6) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g. benthic productivity, predator-prey relationships, etc.)?

The proposed action is not expected to have a substantial impact on biodiversity and ecosystem function within the affected area. Alternatives 2 and 3 are expected to result in a slight increase

in fishing effort during 2 and 6 weeks of the year, respectively; however, none of these changes are expected to be substantial enough to impact biodiversity and/or ecosystem function within the affected area.

7) Are significant social or economic impacts interrelated with natural or physical environmental effects?

The proposed action is not expected to have a substantial impact on the natural or physical environment. Alternatives 2 and 3 are expected to result in a slight increase in fishing effort during 2 and 6 weeks of the year, respectively; however, this increase is not expected to be substantial enough to have significant impacts on the natural or physical environment (section **Error! Reference source not found.**).

8) Are the effects on the quality of the human environment likely to be highly controversial?

The proposed action is informed by input from commercial fishing industry advisors, public input, data from several fisheries-independent trawl surveys, and commercial fish dealer data. The proposed action is not expected to jeopardize any stocks or threaten the sustainability of any fisheries and is not expected to be highly controversial.

9) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas?

The proposed action is expected to result in a slight increase in fishing effort. It is possible that historic or cultural resources such as shipwrecks could be present in the affected areas; however, these areas are already impacted by the scup fishery and by other fisheries. In addition, vessels try to avoid fishing too close to wrecks due to possible loss or entanglement of fishing gear. It is not likely that the proposed action would result in substantial impacts to unique areas.

10) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

The proposed action is informed by advisor recommendations, data from several trawl surveys, and commercial fish dealer data. It is expected to result in only minor changes in fishing effort and is not expected to have highly uncertain effects or involve unique or unknown risks for the human environment.

11) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

As discussed in section **Error! Reference source not found.**, none of the alternatives are expected to have individually insignificant, but cumulatively significant impacts. The proposed action, together with past, present, and reasonably foreseeable future actions, is not expected to

result in significant cumulative impacts on the biological, physical, and human components of the environment.

12) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

There are no districts, sites, highways, structures, or objects, including shipwrecks, listed in or eligible for listing in the National Register of Historical Places that will be affected by the action alternatives (i.e. alternatives 2 and 3) to a greater extent than they would be affected by the no action alternative (alternative 1).

13) Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?

There is no evidence or indication that the commercial scup fishery has ever resulted in the introduction or spread of nonindigenous species; therefore, it is highly unlikely that the proposed action would result in the introduction or spread of a non-indigenous species.

14) Is the proposed action likely to establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration?

The proposed action is not expected to result in significant effects, nor does it represent a decision in principle about a future consideration. The impacts of any future actions will be analyzed in the process of developing those actions.

15) Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

The proposed action is not expected to alter fishing methods or activities such that they threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment. The proposed measures have been found to be consistent with other applicable laws (sections 8.1 through 8.11).

16) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

The impacts of the proposed action on the biological, physical, and human environment are described in section **Error! Reference source not found.**. The cumulative effects of the proposed action on target and non-target species, including ESA and MMPA protected species, are described in section 7.3. The proposed action is not expected to result in cumulate adverse effects that could have a substantial effect on target or non-target species.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting environmental assessment prepared for Framework Adjustment 10 to the Summer Flounder, Scup, and Black Sea Bass FMP, it is hereby determined that the proposed actions will not significantly impact the quality of the human environment as described above and in the environmental assessment. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.

_____ _____

Regional Administrator for GARFO, NMFS, NOAA *Date*

8.3. Endangered Species Act

Sections **Error! Reference source not found.** and **Error! Reference source not found.** contain an assessment of the impacts of the proposed action on endangered species and other protected resources. This action is not expected to affect endangered or threatened species or critical habitat in any manner not considered in previous consultations on the fisheries.

8.4. Marine Mammal Protection Act

Sections **Error! Reference source not found.** and **Error! Reference source not found.** contain an assessment of the impacts of the proposed action on endangered species and other protected species (including marine mammals). This action is not expected to affect protected species or critical habitat in any manner not considered in previous consultations on the fisheries.

8.5. Coastal Zone Management Act

The Coastal Zone Management Act of 1972, as amended, provides measures for ensuring productive fishery habitat while striving to balance development pressures with social, economic, cultural, and other impacts on the coastal zone. The Council developed this framework document and will submit it to NMFS. NMFS will determine whether the proposed actions are consistent to the maximum extent practicable with the coastal zone management programs for each state (Maine through North Carolina).

8.6. Administrative Procedure Act

Sections 551-553 of the Federal Administrative Procedure Act establish procedural requirements applicable to informal rulemaking by federal agencies. The purpose of these requirements is to

ensure public access to the Federal rulemaking process and to give the public notice and opportunity to comment before the agency promulgates new regulations.

The Administrative Procedure Act requires solicitation and review of public comments on actions taken in the development of an FMP and subsequent amendments and framework adjustments. There were many opportunities for public review, input, and access to the rulemaking process during the development of this framework. This action was developed through a multi-stage process that was open to review by affected members of the public. The public had the opportunity to review and comment on management measures during joint Council and Board meetings on December 13, 2016 in Baltimore, MD and May 10, 2017 in Alexandria, VA, as well as during a Monitoring Committee meeting on November 10, 2016 in Baltimore, MD, a Council and Commission AP webinar on November 14, 2016, a Commission AP webinar on April 19, 2017 and during four public hearings in March 2017 held by the Atlantic States Marine Fisheries Commission. The public will have further opportunity to comment on this framework document once NMFS publishes a request for comments notice in the Federal Register.

8.7. Section 515 (Data Quality Act)

Utility of Information Product

This action proposes modifications to the dates of the commercial scup quota periods. This document includes a description of the alternatives considered, the preferred action and rationale for selection, and any changes to the implementing regulations of the FMP. As such, this document enables the implementing agency (NMFS) to make a decision on implementation and serves as a supporting document for the proposed rule.

This framework document was developed to be consistent with the Summer Flounder, Scup, ad Black Sea Bass FMP, the MSA, and other applicable laws through a multi-stage process that was open to review by affected members of the public. The public had the opportunity to review and comment on management measures during a number of public meetings (section 8.6). The public will have further opportunity to comment on this specifications document once NMFS publishes a request for comments notice in the Federal Register.

Integrity of Information Product

This information product meets the standards for integrity under the following types of documents: Other/Discussion (e.g. Confidentiality of Statistics of the MSA; NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics; 50 CFR 229.11, Confidentiality of information collected under the MMPA).

Objectivity of Information Product

The category of information product that applies here is "Natural Resource Plans." Section 8 describes how this document was developed to be consistent with any applicable laws, including the MSA. The analyses used to develop the alternatives (i.e. policy choices) are based upon the best scientific information available. The most up to date information was used to develop the environmental assessment which evaluates the impacts of those alternatives (section 7). The specialists who worked with these core data sets and population assessment models are familiar with the most recent analytical techniques and are familiar with the available data and information relevant to the scup fisheries.

The review process for this document involved Council, NEFSC, GARFO, and NMFS headquarters. The NEFSC technical review was conducted by senior-level scientists with specialties in fisheries ecology, population dynamics and biology, as well as economics and social anthropology. The Council review process involved public meetings at which affected stakeholders had the opportunity to comment on proposed management measures. Review by GARFO was conducted by those with expertise in fisheries management and policy, habitat conservation, protected species, and compliance with applicable law. Final approval of the document and clearance of the rule was conducted by staff at NOAA Fisheries Headquarters, the Department of Commerce, and the U.S. Office of Management and Budget.

8.8. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) concerns the collection of information. The intent of the PRA is to minimize the federal paperwork burden for individuals, small businesses, state and local governments, and other persons, as well as to maximize the usefulness of information collected by the Federal government. This framework proposes no changes to the existing reporting requirements previously approved under the Summer Flounder, Scup, and Black Sea Bass FMPs for vessel permits, dealer reporting, or vessel logbooks. This action does not contain a collection-of-information requirement for purposes of the PRA.

8.9. Impacts of the Plan Relative to Federalism/Executive Order 13132

This framework action does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order (EO) 13132.

8.10. Environmental Justice/ Executive Order 12898

EO 12898 provides that "each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations." EO 12898 directs each Federal agency to analyze the environmental effects, including human health, economic, and social effects of Federal actions

on minority populations, low-income populations, and Indian Tribes, when such analysis is required by NEPA. Agencies are further directed to "identify potential effects and mitigation measures in consultation with affected communities, and improve the accessibility of meetings, crucial documents, and notices."

The proposed action is not expected to affect participation in scup fisheries. Because the proposed action is not expected to change the current levels of participation in these fisheries, no negative economic or social effects in the context of EO 12898 are anticipated as a result. Therefore, the proposed action is not expected to cause disproportionately high and adverse human health, environmental or economic effects on minority populations, low-income populations, or Indian Tribes.

8.11. Regulatory Impact Review and Regulatory Flexibility Act Analysis

8.11.1. Introduction

This section provides analysis to address the requirements of Executive Order 12866 (Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA). Since many of the requirements of these mandates duplicate those required under the MSA and NEPA, this section contains references to other sections of this document. The following sections provide information to determine if the preferred alternatives are significant under E.O. 12866 and if they will have a significant economic impact on a substantial number of small entities under the RFA.

NMFS requires the preparation of a Regulatory Impact Review (RIR) for all regulatory actions that either implement or significantly amend an FMP. The RIR summarizes the economic effects associated with a proposed or final regulatory action, provides a review of the problem to be addressed, evaluates the major alternatives that could be used to address the problem, and ensures that the regulatory agency considers all available alternatives so that public welfare can be enhanced in the most efficient and cost-effective manner. The RIR also serves as the basis for determining whether the proposed regulations are a "significant regulatory action" under E.O. 12866. The RIR in the following sections provides a comprehensive review of the expected changes in net economic benefits to society associated with the preferred alternative.

8.11.2. Regulatory Impact Review (RIR)

8.11.2.1. Description of the Fishery

Section 6.2 contains a description of the fishery affected by the proposed action.

8.11.2.2. Statement of the Problem

This framework action considers modifications to the dates of the commercial scup quota periods. The action alternatives described in this document are intended to help enable the commercial fishery more efficiently meet, but not exceed, the annual commercial quota.

8.11.2.3. Description of Alternatives

Section 5 summarizes all the alternatives considered by the Council. For the purposes of the RIR, only the preferred alternative is considered in detail in this section. The expected socioeconomic impacts of all other alternatives are described in section 7.2.

[To be updated after the Council selects a preferred alternative.]

8.11.2.4. Methodology to Evaluate Economic Impacts of Alternatives

This section evaluates the economic impacts of the preferred alternative. Potential impacts on several areas of interest are discussed in order to comprehensively evaluate the economic effects of the alternatives. The types of effects considered include changes in landings, prices, consumer and producer benefits, harvesting costs, enforcement costs, and distributional effects (NMFS 2007). Due to the lack of an empirical model for the scup fishery and limited knowledge of elasticities of supply and demand, a qualitative approach was used to evaluate the expected impacts. Quantitative measures are provided whenever possible.

Benefit-cost analysis is conducted to evaluate the net social benefit from changes in consumer and producer surpluses that are expected to occur upon implementation of a regulatory action. Total Consumer Surplus (CS) is the difference between the amounts consumers are willing to pay for products or services and the amounts they actually pay. CS thus represents net benefit to consumers. When the information necessary to plot the supply and demand curves for a particular commodity is available, CS is represented by the area below the demand curve and above the market clearing price where the two curves intersect. Since an empirical model describing the elasticities of supply and demand for scup is not available, it was assumed that the price was determined by the market clearing price, or the intersection of the supply and demand curves (NMFS 2007).

Net benefit to producers is producer surplus (PS). Total PS is the difference between the amounts producers actually receive for providing goods and services and the economic cost producers bear to do so. Graphically, it is the area above the supply curve and below the market clearing price where supply and demand intersect. Economic costs are measured by the opportunity cost of all resources including the raw materials and physical and human capital used in the process of supplying goods and services to consumers (NMFS 2007).

The law of demand states that price and quantity demanded are inversely related. Given a demand curve for a commodity, elasticity of demand is a measure of the responsiveness of the quantity that will be taken by consumers given changes in the price of that commodity, holding other variables constant. Several major factors influence the elasticity for a specific commodity.

These factors largely determine whether demand for a commodity is price elastic or inelastic[8] and include: 1) the number and closeness of substitutes for the commodity under consideration, 2) the number of uses for the commodity; and 3) the price of the commodity relative to the consumers' purchasing power (income). Other factors may also determine the elasticity of demand but are not mentioned here because they are beyond the scope of this discussion. As the number and closeness of substitutes and/or the number of uses for a specific commodity increase, the demand for the specific commodity will tend to be more elastic. Demand for commodities that take a large amount of the consumer's income is likely to be elastic compared to services with low prices relative to the consumer's income. The availability of substitutes is considered to be the most important of the factors listed in determining the elasticity of demand for a specific commodity (Leftwich 1973, Awk 1988). Seafood demand in general appears to be elastic. Demand is elastic for most species, product groups, and product forms (Asche and Bjørndal 2003).

An increase in the ex-vessel price of a given species may increase PS. A decrease in the ex-vessel price for that species may also increase PS if it is assumed that the demand for that species is moderately to highly elastic. However, the magnitude of these changes cannot be entirely assessed without knowing the exact shape of the market demand curve for this species.

One of the more visible societal costs of fisheries regulation is that of enforcement. From a budgetary perspective, the cost of enforcement is equivalent to the total public expenditure devoted to enforcement. The economic cost of enforcement is measured by the opportunity cost of devoting resources to enforcement vis à vis some other public or private use, and/or by the opportunity cost of diverting enforcement resources from one fishery to another. Properly defined, enforcement costs are not equivalent to the budgetary expense of dockside or at-sea inspection of vessels. Rather, enforcement costs from an economic perspective, are measured by opportunity cost in terms of foregone enforcement services that must be diverted to enforcing the regulations associated with the preferred alternative.

8.11.2.5. Description of the Management Objectives

This framework action, if implemented, will be implemented under the Summer Flounder, Scup, and Black Sea Bass FMP. The management objectives of that FMP with respect to scup are to:

- Reduce fishing mortality in the scup fishery to assure that overfishing does not occur.
- Reduce fishing mortality on immature scup to increase spawning stock biomass.
- Improve the yield from the fisheries.

[8] Price elasticity of demand is elastic when a change in quantity demanded is large relative to the change in price. Price elasticity of demand is inelastic when a change in quantity demanded is small relative to the change in price. Price elasticity of demand is unitary when a change in quantity demanded and price are the same.

- Promote compatible management regulations between state and federal jurisdictions.
- Promote uniform and effective enforcement of regulations.
- Minimize regulations to achieve the management objectives stated above.

The proposed action is consistent with, and does not modify these objectives. This action is taken under the authority of the MSA and regulations at 50 C.F.R. part 648.

8.11.2.5.1. Analysis of Alternatives

[The RIR requires analysis of the preferred alternatives. This section will be completed once the Council selects a preferred alternative.]

8.11.2.5.2. Evaluation of Significance Under E.O. 12866

[To be updated after the Council selects a preferred alternative.]

The proposed action (i.e. the preferred alternative) does not constitute a significant regulatory action under E.O. 12866. It will not have an annual effect on the economy of more than $100 million. The change in revenues as a result of the preferred alternative is unknown, but will certainly be far below $100 million. The total value of all commercial landings of scup in 2016 was approximately $10.8 million, as shown in commercial dealer data.

The proposed action will benefit the economy, productivity, competition, and jobs in a material way by allowing for a slight increase in scup landings without jeopardizing the sustainability of other fisheries or creating negative impacts to other sectors of the economy. The action will not adversely affect, in the long-term, competition, jobs, the environment, public health or safety, or state, local, or tribal government communities. The action will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The proposed action will not materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of their participants. The action does not raise novel, legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

8.11.3. Regulatory Flexibility Analysis

The RFA requires the Federal rulemaker to examine the impacts of proposed and existing rules on small businesses, small organizations, and small governmental jurisdictions. In reviewing the potential impacts of proposed regulations, the agency must either certify that the rule "will not, if promulgated, have a significant economic impact on a substantial number of small entities" or prepare an Initial Regulatory Flexibility Analysis (IRFA). An IRFA describes the impacts of the proposed rule on small entities and is prepared when a Federal agency publishes a notice of proposed rulemaking if the agency cannot certify that the proposed rule will not have a significant impact on a substantial number of small entities. The determination of whether to certify or prepare an IRFA depends on the context of the proposed action, the problem to be

addressed, and the structure of the regulated industry. If the agency prepares an IRFA, a Final Regulatory Flexibility Analysis will be prepared when the final rule is promulgated.

8.11.3.1. Proposed Action

[To be completed after the Council selects a preferred alternative.]

There are no changes to the existing reporting requirements previously approved under this FMP for vessel permits, dealer reporting, or vessel logbooks. This action does not contain a collection-of-information requirement for purposes of the PRA. This action does not duplicate, overlap, or conflict with other Federal rules.

8.11.3.2. Universe of Regulated Entities

The RFA requires consideration of the economic impacts of proposed actions on directly affected entities. The proposed action will directly affect entities which commercially harvest scup. It will not *directly* affect seafood processors, recreational fishing entities, or other entities.

[To be completed after the Council selects a preferred alternative.]

8.11.3.3. Expected Economic Impacts

Under the RFA, effects on profitability associated with the proposed management measures should be evaluated by assessing the impact of the proposed measures on the costs and revenues for individual business entities. Changes in gross revenues are used as a proxy for profitability in the absence of cost data for individual business entities engaged in the commercial scup fishery. A number of factors influence scup landings, including quotas, prices, weather, and availability of scup and of other species harvested by the same vessels; therefore, changes in landings, and, by extension, changes in revenues, as a result of the proposed action cannot be precisely estimated. Changes in revenue are instead described in a general, qualitative sense.

[To be completed after the Council selects a preferred alternative.]

9. Literature Cited

ASMFC (Atlantic States Marine Fisheries Commission). 2002. Addendum V to the Scup Fishery Management Plan: Summer Period Commercial Scup Allocation. Available at: http://www.asmfc.org/species/scup

DPSWG (Northeast Data Poor Stocks Working Group). 2009. The northeast data poor stocks working group report, part A: skate species complex, deep sea red crab, Atlantic wolffish, scup, and black sea bass. Northeast Fish Science Center Reference Document 09-02. Available at: http://www.nefsc.noaa.gov/publications/crd/crd0902/.

Eno, N.C., D.S MacDonald, J.A.M. Kinnear, S.C Amos, C.J. Chapman, R.A Clark, F.P.D Bunker, Munro, C. 2001. Effects of crustacean traps on benthic fauna. *ICES Journal of Marine Science*. 58:11-20.

Gaichas, S., J. Hare, M. Pinksy, G. DePiper, O. Jensen, T. Lederhouse, J. Link, D. Lipton, R. Seagraves, J. Manderson, and M. Clark. 2015. Climate change and variability: a white paper to inform the Mid-Atlantic Fishery Management Council on the impact of climate change on fishery science and management. Second draft. Available at: http://www.mafmc.org/eafm/

Greene, J.K., M.G. Anderson, J. Odell, and N. Steinberg, eds. 2010. The Northwest Atlantic Marine Ecoregional Assessment: Species, Habitats and Ecosystems. Phase One. The Nature Conservancy, Eastern U.S. Division, Boston, MA. Available at: www.conservationgateway.org

Hamer, P.E. 1979. Studies of the scup, *Stenotomus chrysops*, in the Middle Atlantic Bight. New Jersey Division of Fish, Game, and Shellfish Miscellaneous Report No. 18M.

Hare, J. A., W. E. Morrison, M. W. Nelson, M. M. Stachura, E. J. Teeters, R. B. Griffis, M. A. Alexander, J. D. Scott, L. Alade, R. J. Bell, A. S. Chute, K. L. Curti, T. H. Curtis, D. Kircheis, J. F. Kocik, S. M. Lucey, C. T. McCandless, L. M. Milke, D. E. Richardson, E. Robillard, H. J. Walsh, M. C. McManus, K. E. Marancik, C. A. Griswold. 2016. A vulnerability assessment of fish and invertebrates to climate change on the northeast U.S. continental shelf. *PLOS One.* 11(2): 1-30.

Lucey, S. M. and J. A. Nye. 2010. Shifting species assemblages in the northeast US continental shelf large marine ecosystem. *Marine Ecology Progress Series*. 415: 23-33.

MAFMC (Mid-Atlantic Fishery Management Council). 1996. Regulatory Amendment to the Fishery Management Plan for the Summer Flounder and Scup Fishery. Available at: http://www.mafmc.org/fisheries/fmp/sf-s-bsb

MAFMC (Mid-Atlantic Fishery Management Council). 2003. Framework Adjustment 3 to the Fishery Management Plan for the Summer Flounder and Scup Fishery. Available at: http://www.mafmc.org/fisheries/fmp/sf-s-bsb

MAFMC (Mid-Atlantic Fishery Management Council). 2008. Amendment 9 to the Mackerel, Squid, Butterfish Fishery Management Plan. Available at: http://www.mafmc.org/msb/

MAFMC (Mid-Atlantic Fishery Management Council). 2015. 2016-2018 Summer flounder, scup, and black sea bass specifications; Environmental Assessment, Initial Regulatory Flexibility Analysis. Available at: https://www.greateratlantic.fisheries.noaa.gov/regs/2015/November/15sfcbsb20162018specsprea.pdf.

Morgan, L. E. and R. Chuenpagdee. 2003. Shifting gears: addressing the collateral impacts of fishing methods in U.S. Waters. Pew Science Series. Available at: http://www.pewtrusts.org/en/research-and-analysis/reports/2003/05/01/shifting-gears-addressing-the-collateral-impacts-of-fishing-methods-in-us-waters

Morse, W. W. 1978. Biological and fisheries data on scup, *Stenotomus chrysops* (Linnaeus). Northeast Fisheries Science Center Sandy Hook Laboratory Technical Series Report No. 12. Available at: http://nefsc.noaa.gov/publications/series/shlr/

NEFSC (Northeast Fisheries Science Center). 2010. 51st Northeast Regional Stock Assessment Workshop (51st SAW): Assessment Summary Report (2nd Edition). Northeast Fisheries Science Center Reference Document 11-01. Available at: http://www.nefsc.noaa.gov/publications/

NEFSC (Northeast Fisheries Science Center). 2011. 51st Northeast Regional Stock Assessment Workshop (51st SAW) Assessment Report. Northeast Fisheries Science Center Reference Document 11-02. Available at: http://www.nefsc.noaa.gov/publications/

NEFSC (Northeast Fisheries Science Center). 2014. 58th Northeast Regional Stock Assessment Workshop (58th SAW) Assessment Report. Northeast Fisheries Science Center Reference Document 14-04. Available at: http://www.nefsc.noaa.gov/publications/

NEFSC (Northeast Fisheries Science Center). 2015a. Update on the status of spiny dogfish in 2015 and projected harvests at the F_{MSY} proxy and P* of 40%. Available at: http://www.mafmc.org/ssc-meetings/2016/september-14-2016.

NEFSC (Northeast Fisheries Science Center). 2015b. 60th Northeast Regional Stock Assessment Workshop (60th SAW) Assessment Report. U.S. Department of Commerce, Northeast Fisheries Science Center Reference Document 15-08. Available at: http://www.nefsc.noaa.gov/saw/

NEFSC (Northeast Fisheries Science Center). 2015c. 2015 NE Skate Stock Status Update. Available at: http://www.nefmc.org/calendar/sept.-1-2015-ssc-meeting (item 2.3).

NEFSC (Northeast Fisheries Science Center). 2016a. Scup Data Update for 2016. Available at: http://www.mafmc.org/council-events/2016/ssc-3.

NEFSC (Northeast Fisheries Science Center). 2016b. Summer Flounder Stock Assessment Update for 2016. Available at: http://www.mafmc.org/council-events/2016/ssc-3.

NEFSC (Northeast Fisheries Science Center). 2016c. SAW 62. A: Stock Assessment of Black Sea Bass for 2016. Draft report for peer review. Available at: http://www.mafmc.org/council-events/2017/january-2017-ssc-meeting

NMFS (National Marine Fisheries Service). 2009. Amendment 1 to the Consolidated HMS FMP. Available at: http://www.nmfs.noaa.gov/sfa/hms/documents/fmp/index.html

Nye, J. A., T. M. Joyce, Y.O. Kwon, and J.S. Link. 2011. Silver hake tracks changes in Northwest Atlantic circulation. *Nature Communications*. 2:412.

Pinsky, M.L., B. Worm, M.J. Fogarty, J.L. Sarmiento, and S.A. Levin. 2013. Marine taxa track local climate velocities. *Science*. 341(6151): 1239-1242.

Steimle, F.W, C. A. Zetlin, P. L. Berrien, D. L. Johnson, and S. Chang. 1999. Essential Fish Habitat source document: Scup, *Stenotomus chrysops*, life history and habitat characteristics. NOAA Technical Memorandum NMFS-NE-149. Available at: http://www.nefsc.noaa.gov/publications/tm/

Steimle, F.W. and C. Zetlin. 2000. Reef habitats in the middle Atlantic bight: abundance, distribution, associated biological communities, and fishery resource use. *Marine Fisheries Review*. 62: 24-42.

Stevenson, D., L. Chiarella, D. Stephan, R. Reid, K. Wilhelm, J. McCarthy, and M. Pentony. 2004. Characterization of the fishing practices and marine benthic ecosystems of the northeast US shelf, and an evaluation of the potential effects of fishing on essential habitat. NOAA Technical Memorandum NMFS-NE-181.

Weinberg, J. R. 2005. Bathymetric shift in the distribution of Atlantic surfclams: response to warmer ocean temperature. ICES Journal of Marine Science. 62(7): 1444-1453.

10. List of Agencies and Persons Consulted

In preparing this document, the Council consulted with NMFS, the New England and South Atlantic Fishery Management Councils, Fish and Wildlife Service, and the states of Maine through North Carolina through their membership on the Mid-Atlantic Council and the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Management Board. The advice of NMFS GARFO personnel was sought to ensure compliance with NMFS formatting requirements.

Copies of the document are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901; 302-674-2331. Once finalized, this document will be posted to www.mafmc.org.