

2015 Summer Flounder, Scup, and Black Sea Bass Recreational Specifications

Supplemental Information Report (SIR), Regulatory Impact Review (RIR), and Initial Regulatory Flexibility Analysis (IRFA)

March 2015



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

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

Contents

1.0	Introduction.....	4
1.1	Current (2014) Recreational Management Measures	4
1.2	Proposed Modifications to Recreational Measures in 2015.....	5
2.0	Purposes of this Supplemental Information Report and the Proposed Action.....	6
3.0	Original Action	7
4.0	Proposed New Action	10
5.0	New Information/Circumstances	12
6.0	NEPA Compliance and Supporting Analysis	12
7.0	Public Participation.....	16
8.0	Conclusion	17
9.0	Compliance with Applicable Laws	17
9.1	Magnuson-Stevens Fishery Conservation and Management Act (MSA).....	17
9.2	National Environmental Policy Act (NEPA).....	18
9.3	Marine Mammal Protection Act (MMPA).....	18
9.4	Endangered Species Act (ESA)	18
9.5	Coastal Zone Management Act (CZMA).....	18
9.6	Administrative Procedure Act (APA).....	18
9.7	Information Quality Act (IQA).....	19
9.8	Paperwork Reduction Act (PRA).....	21
9.9	Regulatory Impact Review (RIR)	21
9.9.1	Introduction.....	21
9.9.2	Description of Management Objectives.....	21
9.9.3	Description of the Fishery.....	22
9.9.4	Statement of the Problem.....	22
9.9.5	Description of the Alternatives	22
9.9.6	RIR Impacts	22
9.10	Regulatory Flexibility Analysis (RFA).....	26
9.10.1	Impacts on Regulated Small Entities	26
	<i>Analysis of Impacts of Proposed Measures</i>	30
10.0	Preparers and Persons Consulted	36
11.0	References.....	36

Tables

Table 1. Recreational measures for summer flounder, scup, and black sea bass, 2014 and 2015 (proposed).	6
Table 2: Conservation equivalent summer flounder recreational management measures by state, 2014. Regions included: 1) MA, 2) RI, 3) CT-NJ, 4) DE-VA, and 5) NC.	8
Table 3: Scup recreational measures by state, 2014.	9
Table 4: Black sea bass recreational measures by state, 2014.	10
Table 5: Number of scup recreational fishing trips, harvest limit, landings, and fishery performance from Maine through North Carolina, 2011 to 2015.....	13
Table 6: a) Average percent of black sea bass landed (in number) by wave, 2006 to 2008, based on MRIP landings data and b) projected reduction in black sea bass landings (in number) associated with closing one day per wave, based on 2006 to 2008 MRIP landings data.	15
Table 7. Total estimated angler effort (fishing trips) by state, in 2014. ¹	23
Table 8. Projected number of affected angler trips in 2015 under the proposed measures and under current (2014) measures, by mode (assumes 2015 effort is equal to 2014 effort).	24

Table 9. Regional economic losses of combined management measures assuming a 10 percent reduction in the number of affected trips (2014 \$'s).....	25
Table 10. Regional economic losses of combined management measures assuming a 20 percent reduction in the number of affected trips (2014 \$'s).....	25
Table 11. Summary of landings combinations by vessels reporting party/charter trips (calendar year 2013 VTR Data). Fluke = summer flounder; BSB = black sea bass.....	29
Table 12: Affected party/charter angler effort by state under the proposed 2015 recreational measures...	31
Table 13: Affected party/charter angler effort by state under the <i>status quo</i> 2014 measures.....	31
Table 14. Business entity revenue impacts by home port state under the proposed 2015 measures, assuming a 10 percent reduction in affected angler fishing effort.	32
Table 15. Business entity revenue impacts by home port state under the proposed 2015 measures, assuming a 20 percent reduction in affected angler fishing effort.	33
Table 16. Business entity revenue impacts by home port state under the <i>status quo</i> (2014) measures, assuming a 10 percent reduction in affected angler fishing effort.	33
Table 17. Business entity revenue impacts by home port state under the <i>status quo</i> (2014) measures, assuming a 20 percent reduction in affected angler fishing effort.	34

Acronyms and Abbreviations

ACL	Annual Catch Limit
AM	Accountability Measure
APA	Administrative Procedure Act
ASMFC	Atlantic States Marine Fisheries Commission (Commission)
Board	ASMFC Summer Flounder, Scup, and Black Sea Bass Board
CEQ	Council on Environmental Quality
C.F.R.	Code of Federal Regulations
Commission	Atlantic States Marine Fisheries Commission
Council	Mid-Atlantic Fishery Management Council
CZMA	Coastal Zone Management Act
EA	Environmental Assessment
EEZ	Exclusive Economic Zone
EFH	Essential Fish Habitat
E.O.	Executive Order
FMP	Fishery Management Plan
FR	Federal Register
IRFA	Initial Regulatory Flexibility Analysis
MSA	Magnuson-Stevens Fishery Conservation and Management Act (as currently amended)
MRIP	Marine Recreational Information Program
mt	Metric Ton (equals approximately 2204.6 pounds)
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service (also known as NOAA Fisheries)
NOAA	National Oceanic and Atmospheric Administration
OMB	Office of Management and Budget
PRA	Paperwork Reduction Act
RFA	Regulatory Flexibility Act
RHL	Recreational Harvest Limit
RIR	Regulatory Impact Review
SEA	Supplemental Environmental Assessment
SBA	Small Business Administration
SIR	Supplemental Information Report
SMB	Small Business Administration

TL Total length
U.S. United States
VTR Vessel Trip Report

1.0 Introduction

This document supports an action that would modify recreational management measures for the 2015 fishing year for summer flounder, scup, and black sea bass in federal waters and for vessels in possession of a federal fisheries permit. These proposed measures (i.e., recreational fish size limits, possession limits, and/or fishing seasonal limits) are expected to constrain recreational landings in 2015 to the annual recreational harvest limits (RHLs) for each species, which were analyzed via a 2014-2015 specifications Environmental Assessment (EA). In addition, specific to the summer flounder fishery, this action proposes to continue the management strategy of conservation equivalency, which must be re-specified each year to continue. Under conservation equivalency, states or regions composed of states, through the Atlantic States Marine Fisheries Commission (Commission) process, may determine and implement appropriate state- or region-specific management measures, whose combined effects must achieve the same level of conservation as would federal coastwide measures developed to adhere to the overall recreational harvest limit.

At the time the 2014-2015 Summer Flounder, Scup, Black Sea Bass Specifications EA was prepared and the overall catch limits for these fisheries were considered, the specific recreational measures designed to achieve the 2014 and 2015 recreational harvest limits were not analyzed. Recreational measures are typically considered in separate analyses to allow for consideration of the most recent information. For 2014, recreational measures were analyzed in a June 2014 supplement to the 2014-2015 specifications EA (supplemental EA or SEA). For 2015, the proposed recreational measures are very similar to those implemented in 2014. A review of recent fishery information indicates that there have been no substantial changes in the fisheries or other new information that would alter the impacts previously considered in both the 2014-2015 Summer Flounder, Scup, Black Sea Bass Specifications EA (MAFMC 2014a) and the subsequent supplemental EA for 2014 recreational measures (MAFMC 2014b).¹

1.1 Current (2014) Recreational Management Measures

The 2014 recreational measures for summer flounder, scup, and black sea bass were designed to constrain harvest to the respective recreational harvest limit for each species. These measures were recommended jointly by the Council and the Commission's Summer Flounder, Scup, and Black Sea Bass Board (Board) in December 2013 and analyzed in the 2014 recreational specifications supplemental EA.

In 2014, the recreational summer flounder fishery was managed under conservation equivalency, under which individual states or regions recommend measures to the National Marine Fisheries

¹ The 2014-2015 specifications EA is available at: <http://www.greateratlantic.fisheries.noaa.gov/regs/2014/May/14sfsbsb20142015specsfr.html>. The supplemental EA for 2014 recreational measures is available at: <http://www.greateratlantic.fisheries.noaa.gov/regs/2014/July/14sfsbsb2014recspecsfr.html>.

Service (NMFS), through the Commission process, that are the conservation equivalent of a set of non-preferred coastwide measures. Under conservation equivalency, NMFS waives the federal recreational measures that would otherwise apply in the Exclusive Economic Zone (EEZ; 3 to 200 miles at sea). Federally permitted vessels, as well as vessels fishing in the EEZ, are subject to the recreational fishing measures implemented by the state in which they land. The conservation equivalency process and specific measures for 2014 are described in more detail in section 3.0.

For scup, 2014 federal measures included a 9.0-inch TL minimum size, a 30-fish possession limit, and an open season of January 1-December 31. The Commission also adopted a regional approach to scup management in state waters (0 to 3 miles at sea), allowing each state to implement customized measures in state waters that, in combination with the federal measures, were expected to constrain landings to the harvest limit.

For black sea bass, 2014 federal measures included a 12.5-inch TL minimum size, a 15-fish possession limit, and open seasons from May 19-September 21 and October 18-December 31. Through the Commission process, the northern states of MA-NJ implemented customized measures in state waters that, in combination with the federal measures, were expected to constrain landings to the harvest limit. The southern states of DE-NC implemented measures similar to the federal measures.

1.2 Proposed Modifications to Recreational Measures in 2015

In December 2014, the Council and Board voted to recommend minor changes to the federal recreational measures for scup and black sea bass. In addition, for summer flounder, the Council and Board voted to continue the use of conservation equivalency in 2015.

For scup, the proposed modifications include an increase in the federal possession limit, from 30 fish to 50 fish, in combination with the same size limit and season used in 2014 (9.0-inches TL and an open season from January 1-December 31).

For black sea bass, proposed modifications include an adjustment of 4 days from the current recreational open season, to account for a separate recent action where the opening date for the recreational black sea bass fishery was shifted earlier by 4 days, from May 19 to May 15. This action was recommended by the Council under Framework 8 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP), and supported by a Supplemental Information Report (SIR) in November 2014.² For proposed 2015 measures, a 4-day adjustment to the season in October relative to 2014 (from October 18 to the 22nd) is recommended to account for the previously implemented 4-day earlier opening in May. This modification results in fundamentally the same measures as were analyzed in 2014 because fishing effort (landings per day) in May is roughly equivalent to fishing effort in October. The Council and Board recommended no changes to the federal black sea bass size limit or possession limit. Thus, for federal waters in 2015, the recommended black sea bass measures includes a 12.5-inch TL

² Available at: <http://www.greateratlantic.fisheries.noaa.gov/regs/2014/December/14bsbfw8pr.html>.

minimum size, a 15-fish possession limit, and open seasons from May 15-September 21 and October 22-December 31.

There are no proposed changes to the management strategy or measures for summer flounder; however, action is still needed to continue the use of conservation equivalency in 2015. There are no changes being proposed to the 2015 catch and landings limits, commercial measures, or any elements of the FMP other than 2015 recreational measures. For all three species, proposed 2015 recreational measures and 2014 measures are summarized in Table 1.

Table 1. Recreational measures for summer flounder, scup, and black sea bass, 2014 and 2015 (proposed).

	Summer Flounder	Scup	Black Sea Bass
2014 Recreational Measures	Conservation equivalency ^a and precautionary default of 20.0 inch-TL, 2 fish, May 1- September 30	9.0 inch-TL, 30 fish , open season January 1 - December 31	12.5 inch-TL, 15 fish, open seasons May 19^b – September 21 and October 18 - December 31
Proposed 2015 Recreational Measures	Conservation equivalency ^a and precautionary default of 20.0 inch-TL, 2 fish, May 1- September 30	9.0 inch-TL, 50 fish , open season January 1 - December 31	12.5 inch-TL, 15 fish, open seasons May 15^b - September 21 and October 22 - December 31 ^c

^a Equivalent to a set of non-preferred coastwide measures including an 18.0 inch-TL minimum size, 4 fish possession limit, and open season May 1- September 30.

^b The 2014 black sea bass recreational season opened on May 19. Framework 8 to the FMP (November 2014) modified the opening date to May 15.

^c This preferred “coastwide” measure for black sea bass is recommended in combination with state waters measures in the northern states (MA-NJ) that achieve the necessary reduction.

2.0 Purposes of this Supplemental Information Report and the Proposed Action

The purpose of this SIR is to determine if the proposed modifications to the recreational management measures for summer flounder, scup, and black sea bass in 2015 will require further analysis other than that prepared in the 2014-2015 Specifications Environmental Assessment (EA) and the 2014 recreational management measures supplemental Environmental Assessment (SEA).

This action proposes slight modifications to the current recreational management measures (i.e., recreational fish size limits, possession limits, and/or seasonal limits) for the 2015 fishing year in federal waters and for vessels in possession of a federal fisheries permit. These measures are expected to constrain landings to the respective recreational harvest limits for summer flounder, scup, and black sea bass. Proposed modifications to the current recreational management measures include a 20-fish increase in the possession limit for scup, and a 4-day modification of the recreational season for black sea bass to account for a previous 4-day seasonal adjustment. In addition, specific to the summer flounder fishery, this action proposes to continue the management strategy of conservation equivalency, which does not roll over in the regulations from year to year and must be re-specified.

In making a determination on the need for additional analysis under the National Environmental Policy Act (NEPA), we have considered and have been guided by the Council on Environmental Quality (CEQ) NEPA regulations and applicable case law. The CEQ's regulations state that "[a]gencies shall prepare supplements to either draft or final environmental impact statements if: (i) the agency makes *substantial* changes in the proposed action that are relevant to environmental concerns; or (ii) there are *significant* new circumstances or information relevant to environmental concerns *and* bearing on the proposed action or its impacts." 40 Code of Federal Regulations (C.F.R.) § 1502.09(c) (emphasis added). In addition, we have considered the QEC's "significance" criteria at 40 C.F.R. § 1508.27 to determine whether any new circumstances or information are "significant," which could require a new environmental assessment.

We next describe and compare the current recreational measures and the proposed modifications in the context of the June 2014 recreational measures SEA that supported the current measures. We then consider whether there are any significant new circumstances or information that are relevant to environmental concerns and that have a bearing on the proposed action or its impacts.

3.0 Original Action

Federal recreational measures for 2014 for the summer flounder, scup, and black sea bass fisheries were analyzed in a supplement to the 2014-2015 specifications EA, and implemented via a July 7, 2014 final rule (79 FR 38259). This supplemental EA built off of the 2014-2015 specifications EA, which analyzed overall catch and landings limits for the summer flounder, scup, and black sea bass fisheries in 2014 and 2015. Previous proposed and final rules for these fisheries may be accessed at <http://www.greateratlantic.fisheries.noaa.gov/regs/>.

Summer Flounder

In 2014, the recreational summer flounder fishery was managed under conservation equivalency, under which individual states or regions recommend to NMFS, through the Commission, measures that are the conservation equivalent of a set of "non-preferred" coastwide measures. NMFS then adopts those measures, following the provisions established in Framework Adjustment 2 to the FMP. Under conservation equivalency, NMFS waives the federal recreational measures that would otherwise apply in the EEZ. Federally permitted vessels, as well as vessels fishing in the EEZ, are then subject to the recreational fishing measures implemented by the state in which they land.

To constrain recreational landings to the overall recreational harvest limit, the Commission established conservation equivalency guidelines that require each state to determine and implement an appropriate possession limit, size limit, and season to achieve the landings target for each state. Framework 6 to the FMP allows for regional conservation equivalency, where groups of adjacent states may form voluntary regions and develop identical regulations for all the states within the region, designed to achieve a pooled regional recreational harvest target. The combination of state or regional measures must be "equivalent," in terms of conservation (i.e., expected to not exceed the recreational harvest limit), to a set of non-preferred coastwide measures, which are recommended by the Council and the Commission's Summer Flounder Board each year. For 2014, these non-preferred coastwide measures included an 18.0-inch TL minimum size, a 4-fish possession limit, and an open season from May 1-September 30.

The Commission requires each state or region to submit its conservation equivalency proposal by January 15. The Commission’s Summer Flounder Technical Committee then evaluates the proposals and advises the Commission’s Summer Flounder, Scup, and Black Sea Bass Board of each proposal’s consistency with respect to achieving the coastwide recreational harvest limit. After the Technical Committee evaluation, the Board meets to approve or disapprove each proposal.

The FMP also requires that the Council and Commission specify precautionary default measures when conservation equivalency is recommended. These would be required to be implemented by a state that either does not submit a summer flounder management proposal or whose measures do not achieve the required reduction. The precautionary default measures need to be set at or below the level of reduction needed for the state with the highest reduction level to ensure it is constraining for all states. For 2014, the precautionary default measures included a 20.0-inch TL minimum fish size, a 2-fish per person possession limit, and open season from May 1 through September 30. Any states or regions assigned the precautionary default measures would be allowed to resubmit revised management measures. In this case, the Commission would notify NMFS of any resubmitted proposals that were approved after publication of the final rule implementing the recreational specifications. NMFS would then publish a notice in the *Federal Register* to notify the public of any changes to a state’s management measures.

In 2014, the Commission used a regional approach to conservation equivalency, which included regional measures listed in Table 2. Regional conservation equivalency requires identical measures (i.e., minimum size, possession limit, and season length) for all states within a region.

Table 2: Conservation equivalent summer flounder recreational management measures by state, 2014. Regions included: 1) MA, 2) RI, 3) CT-NJ, 4) DE-VA, and 5) NC.

State	Min. Size (inches)	Possession Limit	Open Season
Massachusetts	16	5 fish	May 22-September 30
Rhode Island	18	8 fish	May 1-December 31
Connecticut	18	5 fish	May 17-September 21
CT Shore Program (45 designated shore sites)	16	5 fish	May 17-September 21
New York	18	5 fish	May 17-September 21
New Jersey	18	5 fish	May 23-September 27
NJ Pilot Shore Program (1 site)	16	2 fish	May 23-September 27
Delaware	16	4 fish	All year
Maryland	16	4 fish	All year
Potomac River Fish. Commission (PRFC)	16	4 fish	All year
Virginia	16	4 fish	All year
North Carolina	15	6 fish	All year

Scup

In 2014, federal recreational scup measures included a 9.0-inch TL minimum fish size, a 30-fish per person possession limit, and an open season of January 1 through December 31. The

Commission continued the use of a regional approach to scup management, which allowed for customized scup measures in state waters. The combination of state-specific measures for scup is shown in Table 3.

Table 3: Scup recreational measures by state, 2014.

State	Min. Size (inches)	Possession Limit	Fishing Season
MA (private angler)	10	30 fish	May 1-December 31
MA (party/charter)	10	45 fish	May 1-June 30
		30 fish	July 1-December 31
RI (private angler)	10	30 fish	May 1-December 31
RI (party/charter)	10	30 fish	May 1-August 31; November 1-December 31
		45 fish	September 1-October 31
CT (private angler)	10.5	20 fish	May 1-December 31
CT (45 designated shore sites)	9		
CT (party/charter)	10.5	20 fish	May 1-August 31; November 1-December 31
			11
NY (private angler)	10	30 fish	May 1-December 31
NY (party/charter)	10	30 fish	May 1-August 31; November 1-December 31
		45 fish	September 1- October 31
NJ	9	50 fish	January 1-February 28; July 1-December 31
DE	8	50 fish	January 1-December 31
MD	8	50 fish	January 1-December 31
VA	8	50 fish	January 1-December 31
NC, North of Cape Hatteras (N of 35° 15'N)	8	50 fish	January 1-December 31

Black Sea Bass

In 2014, federal black sea bass measures for the recreational fishery included a coastwide 12.5-inch TL minimum fish size, a 15-fish possession limit, and open seasons from May 19 through September 21 and October 18 through December 31. The Commission continued the use of a regional approach to black sea bass management, which allowed for customized black sea bass measures in state waters. The combination of state-specific measures for black sea bass are shown in Table 4.

Table 4: Black sea bass recreational measures by state, 2014.

State	Min. Size (inches)	Possession Limit	Open Season
NH	13	10 fish	January 1-December 31
MA	14	8 fish	May 17-September 15
MA For-Hire vessels with MA DMF Letter of Authorization	14	8 fish	May 17-May 31
		20 fish	September 1-September 30
RI	13	3 fish	June 29- August 31
		7 fish	September 1-December 31
CT (private & shore)	13	3 fish	June 21-August 31
		8 fish	September 1-December 31
CT Authorized Party/Charter Monitoring Program Vessels	13	8 fish	June 21-December 31
NY	13	8 fish	July 15-December 31
		3 fish	July 1-August 31
NJ	12.5	15 fish	May 19-June 30; September 1- 6; October 18-December 31
DE	12.5	15 fish	May 19-September 21; October 18-December 31
MD	12.5	15 fish	May 19-September 21; October 18-December 31
VA	12.5	15 fish	May 19-September 21; October 18-December 31
NC, North of Cape Hatteras (N of 35° 15'N)	12.5	15 fish	May 19-September 21; October 18-December 31

4.0 Proposed New Action

This action proposes slight modifications to some of the federal recreational measures. This section compares the current (2014) recreational management measures to the proposed 2015 recreational management measures.

Recreational measures for 2015 were recommended jointly by the Council and Board at a joint meeting in December 2014. Prior to making these recommendations, the Council and Board considered the advice of the joint Summer Flounder, Scup, and Black Sea Bass Monitoring Committee, as well as the Council and Commission’s Summer Flounder, Scup, and Black Sea Bass Advisory Panels.

Summer Flounder

The 2015 summer flounder recreational harvest limit is 7.38 million lb as published in the final rule (December 30, 2014; 79 FR 78312). Based on preliminary Marine Recreational Information Program (MRIP) data, 2014 summer flounder landings were 7.33 million lb, which is slightly less than the 2015 recreational harvest limit of 7.38 million lb. Thus, a coastwide reduction in landings would not be necessary to achieve the 2015 RHL, assuming the same level of fishing in 2015.

The Council and Board voted to recommend continued use of summer flounder conservation equivalency in 2015 to achieve the recreational harvest limit, using the same process described above in section 3.0. The Council and Board recommended no changes to the 2014 precautionary default measures (a 20.0-inch TL minimum size, 2-fish per person possession limit, and open season of May 1 through September 30), or the non-preferred coastwide measures (an 18.0-inch TL minimum size, 4-fish per person possession limit, and open season of May 1 through September 30).

Through the Commission's process, each state (individually or as part of a region) submitted a conservation equivalency proposal in January of 2015. The Commission's Summer Flounder Technical Committee evaluated these proposals and advised the Commission's Summer Flounder, Scup, and Black Sea Bass Board of each proposal's consistency with respect to achieving the coastwide recreational harvest limit. The Commission's Summer Flounder Board then met to review and approve states proposals, and ultimately recommended *status quo* regional management under conservation equivalency for 2015. In other words, the Board recommended applying the same regional breakdown used in 2014 again in 2015. Specific state and regional management measures are expected to remain unchanged.

Scup

The 2015 scup recreational harvest limit is 6.80 million lb, as published in the final rule (December 30, 2014; 79 FR 78312). Based on preliminary MRIP data, 2014 scup landings were 4.46 million lb, which is much lower than the 2015 harvest limit of 6.80 million lb. Thus, a coastwide reduction in landings would not be necessary to achieve the 2015 RHL, assuming the same level of fishing in 2015.

Changes to the possession limits, size limits, and fishing seasons were considered to potentially allow for increased recreational scup harvest, as landings have been well under the harvest limits in recent years. The Council and Board voted to recommend an increase in the federal possession limit from 30 fish to 50 fish, in combination with the same size limit and season used in 2014. Thus, the recommended federal scup measures include a 9.0-inch TL minimum fish size, a 50-fish per person possession limit, and open season of January 1 through December 31. The liberalization in the possession limit was recommended to increase flexibility for recreational anglers targeting scup, in order to potentially allow the fishery to come closer to achieving (but not exceeding) the recreational harvest limit in 2015 (see section 6.0). In state waters, scup measures are expected to remain the same as in 2014 for all states except for Connecticut, which is expected to slightly liberalize their minimum size and possession limits to make their measures consistent with those in the other northern states (Table 3).

Black Sea Bass

Based on preliminary MRIP data, 2014 recreational black sea bass landings were 3.45 million lb. Assuming the same level of fishing in 2015, a reduction in landings would be required to achieve the 2015 recreational harvest limit of 2.33 million lb. To achieve this reduction, measures will be adjusted in state waters by the northern states of MA-NJ, where the majority of landings contributing to recent overages have originated. For federal waters, the Council and Board recommended *status quo* measures, except for a 4-day adjustment in October to account for a previous 4-day change to in the May season. No changes were recommended to the possession

limit or minimum size. Thus, the federal measures recommended for 2015 include a 15-fish possession limit, a 12.5-inch TL minimum size, and open seasons of May 15-September 21 and October 22-December 31.

Given that anglers fishing in federal waters or holding a federal permit are subject to state waters measures where state waters measures are more restrictive, *status quo* federal measures are not expected to affect the ability of restrictions in state waters to constrain landings to the harvest limit in 2015. The Commission is working with the northern states (MA-NJ) to modify their state waters regulations to achieve, but not exceed, the 2015 recreational harvest limit. Changes to state waters measures for black sea bass have not yet been finalized, but the states of MA-NJ have proposed a range of options to restrict possession limits, size, limits, and seasons, consistent with a methodology approved by the Commission's Black Sea Bass Technical Committee. Measures for the southern states (DE-NC) are expected to remain consistent with federal measures.

5.0 New Information/Circumstances

Determining whether a supplemental NEPA analysis is required involves a two-step process. First, one must identify new information or circumstances. Second, if there is new information, one must analyze whether these are significant to the analysis of the action and relevant to environmental concerns and bearing on the action or its impacts.

In terms of new information and circumstances, a limited amount of new information was available and considered; however, none of this information alters the impacts previously considered in the supplemental EA. The Council considered information that has become available since the implementation of the 2014 recreational measures, including final 2013 fishery catch and landings data, preliminary 2014 catch and landings data, stakeholder input on fishery conditions in 2014, and final 2014 state waters regulations for each species. This new information is summarized in the text and tables in sections 3.0, 4.0, and 6.0. None of the new information indicated that there have been any substantial changes in the circumstances under which the original action was implemented. No updated stock assessment information is available, and the most recent assessment information indicates that none of the stocks are overfished or experiencing overfishing. Available data also does not indicate any recent substantial shifts in availability or fishing effort. The proposed action uses existing information to support the modification to the recreational management measures in federal waters.

6.0 NEPA Compliance and Supporting Analysis

In this section, the current (2014) measures are compared to the proposed 2015 measures in terms of their expected impacts. The methods and data sources used in this analysis are consistent with those applied in the supplemental Environmental Assessment which considered 2014 recreational measures.

Summer Flounder

For summer flounder, the management strategy proposed for 2015 is identical to that of 2014. The regional conservation equivalency configuration and the management measures applied in each region are expected to remain the same. There are no proposed changes to the non-preferred coastwide measures or the precautionary default measures. However, action is still necessary to

continue conservation equivalency in 2015, as this strategy and its associated regulations do not roll over from year to year.

A review of recent data indicates that current measures are likely to constrain landings to the 2015 harvest limit. The proposed measures for 2015 are the same as the 2014 management measures, which resulted in landings that were 99% of the 2015 recreational harvest limit. Additionally, no substantial shifts in fishery conditions have been observed or are expected from 2014 to 2015 because the catch limits and management measures for all three fisheries are essentially the same as last year. Based on a review of 2014 fishery performance under the current summer flounder measures, *status quo* management measures are likely to be the most appropriate for achieving, but not exceeding the recreational harvest limit in 2015. Thus, for summer flounder, this action is primarily administrative in nature and the impacts described in the 2014 supplemental EA remain unchanged. These include neutral expected biological impacts, as conservation equivalency allows for implementation of state or regional measures that are appropriate for each region, within the constraint of the overall coastwide harvest limit. Neutral impacts were also expected on habitat (including EFH) and protected resources because the measures are intended to constrain catch within the established harvest limit. Slight negative economic impacts were expected when compared with the no action alternative (coastwide measures). This is because under the no action alternative, coastwide measures would have been advantageous in some areas of high fishing effort and therefore resulted in fewer impacted trips on a coastwide basis. However, these measures would not have allowed each state or region to customize their measures, and would be expected to be less effective in constraining landings to the harvest limit

Scup

For scup, the proposed change to the federal measures includes a 20-fish increase in the possession limit, from 30 to 50 fish per person per day. This change is proposed to increase recreational opportunities to harvest scup, given that the recreational scup fishery has substantially under-harvested relative to the recreational harvest limits in recent years (Table 5).

Table 5: Number of scup recreational fishing trips, harvest limit, landings, and fishery performance from Maine through North Carolina, 2011 to 2015.

Year	Number of Directed Fishing Trips ^a	Percentage of Directed Trips relative to Total Trips ^{a,b}	Recreational Harvest Limit (million lb)	Recreational Landings of Scup (million lb) ^d	Percentage Overage (+)/ Underage (-)
2011	477,279	1.8	5.74 ^c	3.67	-36%
2012	603,128	2.3	8.45 ^c	4.17	-51%
2013	524,851	2.1	7.55 ^c	5.11	-32%
2014	412,563	1.6	7.03 ^c	4.46	-37%
2015	NA	NA	6.80	NA	NA

^a Estimated number of recreational fishing trips (expanded) where the primary target species was scup, Maine through North Carolina. Source: Pers. Comm., Scott Steinback, NEFSC, February 2015. ^b Source of total trips for all species combined: Pers. Comm. with the National Marine Fisheries Service, Fisheries Statistics Division, October 29, 2014. ^c Adjusted for research set-aside. ^d Source: Pers. Comm. with the National Marine Fisheries Service, Fisheries Statistics Division, February 23, 2015. NA = Data not available.

As described in the June 2014 supplemental EA, recreationally landed scup are primarily taken from state waters (0-3 miles offshore), mostly off of the northern states (MA-NJ). Anglers from southern states (DE-NC) harvest relatively few scup, and currently have state waters possession

limits of 50 fish. Thus, the combination of state waters measures, in the northern states in particular, has effectively controlled the majority of recreational scup harvest since the Commission began the regional approach to scup management in state waters. The proposed modification to the federal scup possession limit in this action is recommended in part to allow additional flexibility for anglers from northern states to take advantage of current possession limits in state waters. The states of MA-NY specify certain seasonal windows where anglers aboard party/charter vessels may take up to 45 fish per person (Table 3). Because recreational vessels holding a federal permit for scup are subject to federal regulations regardless of where they are fishing, vessels with federal permits are not currently able to take full advantage of these higher possession limits during this “bonus season.” In addition, some vessels may target scup in federal waters. Federal permit holders often temporarily drop their federal permit in order to take advantage of such state regulations. An increase in the federal possession limit is expected to reduce the administrative burden associated with this practice, while still constraining scup landings through the combination of state and federal measures.

An increase in the possession limit from 30 to 50 fish is not expected to result in impacts that differ substantially from those previously considered in the supplemental EA. For scup, there is little practical difference between a possession limit of 30 fish and 50 fish given that the actual numbers of scup landed by the typical angler tend to be well below the current high possession limits, and that trips where anglers achieve the possession limits are relatively few. Based on data from Table 14 in the supplemental EA, the average number of scup landed per angler per trip has ranged from 5.5 to 10 fish since 2009, well under the federal possession limits in each of those years. In 2013, the average number of scup landed per angler per trip was 10 fish, under a federal possession limit of 30 fish. Based on input from Council advisors and other stakeholders, an increase in the possession limit would provide party/charter businesses with an additional marketing tool, as they can offer passengers the theoretical chance to take home more fish, despite the reality that most anglers do not approach the higher possession limits. Thus, the proposed 2015 measures are not expected to result in impacts substantially different from those described in the supplemental EA. As described in the supplemental EA, neutral impacts were expected on the biological environment, habitat, and protected resources because the measures are intended to constrain catch within the previously established harvest limit. Slight negative impacts were expected on the economic environment because the previously larger minimum size would have resulted in lower catch.

Black Sea Bass

For black sea bass, the only change proposed to the federal recreational measures includes a modification of 4 days the October season. As previously described, this change is proposed in order to account for a previously implemented 4-day shift of the opening date in May. When the previous change was considered, it was specified that the change would be accounted for during the 2015 recreational specifications process. The methods used to propose the seasonal adjustment in this action are consistent with those described in the supplemental EA and in

Framework 8 to the FMP.³ Specifically, data examined included the distribution of black sea bass catch across states and Waves (each two month period starting with January-February is one “Wave”). These data were used to determine trade-offs between states and waves when catch reductions must be made via closing days in different parts of the year, and shows that there is a one-to-one tradeoff between fishing days in May (part of Wave 3) and September-October (Wave 5; Table 6). This information was used to determine that the previously added four extra days in May could be accounted for by reducing the Wave 5 (September-October) season by 4 days.

Table 6: a) Average percent of black sea bass landed (in number) by wave, 2006 to 2008, based on MRIP landings data and b) projected reduction in black sea bass landings (in number) associated with closing one day per wave, based on 2006 to 2008 MRIP landings data.

a.

State	Wave 1	Wave 2	Wave 3	Wave 4	Wave 5	Wave 6
MA	0.0000	0.0000	37.1113	20.0479	42.8408	0.0000
RI	0.0000	0.0058	4.3758	24.4527	64.0531	7.1126
CT	0.0000	0.0000	2.0370	72.2979	0.9908	24.6742
NY	0.0000	0.0000	24.8098	29.4535	36.1107	9.6260
NJ	0.0000	0.1494	41.5411	16.6213	38.7958	2.8924
DE	0.0000	4.5314	51.5769	21.7233	20.4979	1.6704
MD	0.0000	0.6181	59.0091	9.5374	24.6708	6.1646
VA	0.0000	2.4764	42.8817	25.7301	17.4615	11.4503
NC ^a	2.4157	5.4607	24.6746	23.6117	30.6216	13.2157
Coast	0.0508	0.5525	36.2126	21.8059	36.1011	5.2770

^aNorth of Cape Hatteras.

b.

State	Wave 1	Wave 2	Wave 3	Wave 4	Wave 5	Wave 6
MA	0.0000	0.0000	0.6084	0.3234	0.7023	0.0000
RI	0.0000	0.0001	0.0717	0.3944	1.0501	0.1166
CT	0.0000	0.0000	0.0334	1.1661	0.0162	0.4045
NY	0.0000	0.0000	0.4067	0.4751	0.5920	0.1578
NJ	0.0000	0.0024	0.6810	0.2681	0.6360	0.0474
DE	0.0000	0.0743	0.8455	0.3504	0.3360	0.0274
MD	0.0000	0.0101	0.9674	0.1538	0.4044	0.1011
VA	0.0000	0.0406	0.7030	0.4150	0.2863	0.1877
NC ^a	0.0409	0.0895	0.4045	0.3808	0.5020	0.2167
Coast	0.0009	0.0091	0.5936	0.3517	0.5918	0.0865

^aNorth of Cape Hatteras.

³ For a full description, see the supplemental EA at: <http://www.greateratlantic.fisheries.noaa.gov/regs/2014/July/14sfsbsb2014recspecsfr.html> and the Framework 8 SIR at <http://www.greateratlantic.fisheries.noaa.gov/regs/2014/December/14bsbfw8pr.html>.

The adjustments resulting from the 4-day shift in Framework 8 and the 4-day shift proposed in this action are expected to offset each other in terms of black sea bass landings. Therefore, the impacts previously considered in the June 2014 supplemental EA for black sea bass measures remain unchanged. As described in the supplemental EA, neutral to slight positive impacts were expected on the biological environment, and neutral impacts were expected on habitat and protected resources because the measures are intended to constrain catch within the previously established harvest limit. Slight negative impacts were expected on the economic environment because the measures were more restrictive than the previous year.

For black sea bass, the Council must also comply with the recreational Accountability Measures (AMs), as modified under the Omnibus Recreational Accountability Measures Amendment. Consistent with the modified recreational AMs, a 3-year average of the recreational sector Annual Catch Limit (ACL) was evaluated based on a 3-year moving average comparison of total catch (landings and dead discards). In the event of an overage of the ACL, AMs are triggered to account for the overage. An accountability measure consisting of adjustments to possession limit, size limit, and season is applicable to the 2015 season due to the average overage, largely resulting from a substantial overage from 2012. The recreational accountability measure was first implemented in 2014 because of the 2012 overage. For 2015, the Council is continuing application of the same accountability measures used in 2014, including a restricted possession limit and season. That is, the restrictive measures implemented in federal waters in 2014 are being maintained.

To account for the reduction necessary to achieve the 2015 harvest limit, state waters measures in the northern states (MA-NJ) will be restricted even further in 2015. The reductions are being taken in the northern states to address the primary origin of recent overages. Where state measures are more restrictive than federal waters measures, anglers and federally permitted charter/party vessels are bound by the measures of the state in which they land. For this reason, anglers fishing from the northern states will have to comply with the more restrictive state waters measures. Black sea bass harvest in the southern states of DE-NC has been minimal relative to the coastwide harvest in recent years. Maintaining essentially *status quo* federal measures will allow these southern states to maintain current measures, as much of their fishery takes place in federal waters.

The Council and Board also recommended that, if the combination of restrictions to northern states measures are not sufficient to constrain 2015 landings, that NMFS should implement a set of backup measures including a 14-inch TL minimum size, a 3 fish possession limit, and a season from July 15-September 15 on a coastwide basis. These conservative backup measures are expected to deter the northern states from implementing measures that are less restrictive than necessary to achieve the required reduction. In the event that the combination of state and federal measures is not sufficient to constrain landings to the harvest limit in 2015, Accountability Measures will likely be triggered after evaluation of final 2015 catch. In this case, as described in the 2014 recreational measures supplemental EA, the appropriate adjustments will be made in a subsequent year to account for such overages.

7.0 Public Participation

In addition to the opportunity for comment during the development of the EA and SEA, the public had the opportunity to review and comment specifically on 2015 recreational management

measures during the Summer Flounder, Scup, and Black Sea Bass Monitoring Committee Meeting November 13, 2014, during the Summer Flounder, Scup, and Black Sea Bass Advisory Panel Meeting December 3, 2014 and during the Council/Board meeting held on December 8-11, 2014. This document will be subject to public comment through proposed rulemaking, as required under the Administrative Procedure Act and, therefore, may be improved based on comments received.

8.0 Conclusion

After considering the proposed action, new information, and new circumstances, NMFS has determined that it is not necessary to create a new NEPA analysis because: (1) the minor modifications to the scup and black sea bass recreational management measures and their impacts are not substantially different from what was originally considered and analyzed; and (2) no new information or circumstances exist that are significantly different from when the original Findings of No Significant Impact were signed on April 16, 2014, and June 12, 2014. The specifications EA and its supplement for recreational measures thus remain valid to support the proposed action.

9.0 Compliance with Applicable Laws

9.1 Magnuson-Stevens Fishery Conservation and Management Act (MSA)

Section 301 of the Magnuson Stevens Act (MSA) requires that FMPs contain conservation and management measures that are consistent with the ten National Standards. The actions taken in this specification document are confined to processes defined within the FMP; therefore, as actions within the FMP have been deemed consistent with the National Standard, these specification actions are similarly consistent. The most recent FMP Amendments address how the management actions implemented comply with the National Standards. First and foremost, 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, on a continuing basis, the optimum yield for summer flounder, scup, and black sea bass and the U.S. fishing industry, including annual catch limits and measures to ensure accountability for those limits. The Council uses the best scientific information available (National Standard 2) and manages all three species throughout their range (National Standard 3). These management measures do not discriminate among residents of different states, (National Standard 4), they do not have economic allocation as their sole purpose (National Standard 5), the measures account for variations in these fisheries (National Standard 6), they avoid unnecessary duplication (National Standard 7), they take into account the fishing communities (National Standard 8), and they promote safety at sea (National Standard 10). Finally, actions taken are consistent with National Standard 9, which addresses bycatch in fisheries. The Council has implemented many regulations that have indirectly acted to reduce fishing gear impacts on Essential Fish Habitat (EFH). 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 ports and communities that depend on these fisheries, the Nation as a whole, and certainly for the resources.

9.2 National Environmental Policy Act (NEPA)

The Council has preliminarily determined that the 2014-2015 specifications EA and SEA for the 2014 Recreational Measures remain valid for this action. Thus, there is no need to supplement these analyses and their Findings of No Significant Impact.

9.3 Marine Mammal Protection Act (MMPA)

None of the specifications proposed in this document are expected to alter overall effort or fishing methods beyond what has been previously analyzed. Therefore, this action is not expected to affect marine mammals or critical habitat in any manner not considered in previous consultations on the fisheries.

For further information on the potential impacts of the fishery and the proposed management action on marine mammals, see the marine mammal sections of the supplemental Environmental Assessment for the 2014 recreational management measures, which found that the recreational measures were not expected to affect marine mammals or critical habitat in any manner not considered in previous consultations on the fisheries.

9.4 Endangered Species Act (ESA)

Section 7 of the Endangered Species Act requires Federal agencies conducting, authorizing, or funding activities that affect threatened or endangered species to ensure that those effects do not jeopardize the continued existence of listed species. The proposed action is not expected to cause an increase in fishing effort. Also, it will not cause a change in the way the fishery currently operates. Accordingly, based on the information available at this time, the Council believes that the proposed action would not be likely to jeopardize any ESA-listed species or alter or modify any critical habitat.

9.5 Coastal Zone Management Act (CZMA)

Section 307(c)(1) of the Coastal Zone Management Act (CZMA) of 1972, as amended, requires that all federal activities that directly affect the coastal zone be consistent with approved state coastal zone management programs to the maximum extent practicable. The CZMA provides measures for ensuring stability of productive fishery habitat while striving to balance development pressures with social, economic, cultural, and other impacts on the coastal zone. It is recognized that responsible management of both coastal zones and fish stocks must involve mutually supportive goals. NMFS must determine whether this action is consistent to the maximum extent practicable with the CZM programs for each state (Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and North Carolina). The Council has developed these management measures and will submit them to NMFS; NMFS must determine whether this action is consistent to the maximum extent practicable with the CZM programs for each state (Maine through North Carolina).

9.6 Administrative Procedure Act (APA)

Section 553 of the Administrative Procedures Act establishes 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 adequate notice and

opportunity for comment. At this time, the Council is not requesting any abridgement of the rulemaking process for this action.

9.7 Information Quality Act (IQA)

Utility of Information Product

The information presented in this document is helpful to the intended users (the affected public) by presenting a clear description of the purpose and need of the proposed action, the measures proposed, and the impacts of those measures. A discussion of the reasons for selecting the proposed action is included so that intended users may have a full understanding of the proposed action and its implications. The intended users of the information contained in this document include individuals involved in the summer flounder, scup, and black sea bass fisheries, (e.g. fishermen and fishery managers), and other individuals interested in the management of the fisheries. The information contained in this document should be helpful to individuals affected by the proposed measures. This information will enable these individuals to adjust their management practices and make appropriate business decisions. Until a proposed rule is prepared and published, this document is the principal means by which the information contained herein is available to the public. The information provided in this document is based on the most recent available information from the relevant data sources. The information contained in this document, as well as in the EA and SEA it builds off of, includes detailed and recent information on the summer flounder, scup, and black sea bass resources.

The action described in this document was developed to be consistent with the FMP, MSA, and other applicable laws, through a multi-stage process that was open to review by affected members of the public. In addition to the opportunity for comment during the development of the EA and SEA, the public had the opportunity to review and comment specifically on recreational management measures during the Summer Flounder, Scup, and Black Sea Bass Monitoring Committee Meeting November 13, 2014, during the Summer Flounder, Scup, and Black Sea Bass Advisory Panel Meeting December 3, 2014 and during the Council meeting held on December 8-11, 2014. This document will be subject to public comment through proposed rulemaking, as required under the APA and, therefore, may be improved based on comments received. The *Federal Register* notice that announces the proposed rule and the final rule and implementing regulations will be made available in printed publication, on the website for the Greater Atlantic Regional Fisheries Office (www.greateratlantic.fisheries.noaa.gov), and through the Regulations.gov website. The *Federal Register* documents will provide metric conversions for all measurements.

Integrity of Information Product

The 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 C.F.R. 229.11, Confidentiality of information collected under the MMPA.)

Prior to dissemination, information associated with this action, independent of the specific intended distribution mechanism, is safeguarded from improper access, modification, or destruction, to a degree commensurate with the risk and magnitude of harm that could result from the loss, misuse, or unauthorized access to or modification of such information. All

electronic information disseminated by NMFS adheres to the standards set out in Appendix III, “Security of Automated Information Resources,” of Office of Management and Budget Circular A-130; the Computer Security Act; and the Government Information Security Act. All confidential information (e.g., dealer purchase reports) is safeguarded pursuant to the Privacy Act; Titles 13, 15, and 22 of the U.S. Code (confidentiality of census, business, and financial information); the Confidentiality of Statistics provisions of the MSA; and NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics.

Objectivity of Information Product

For purposes of the Pre-Dissemination Review, this document is considered to be a “Natural Resource Plan.” Accordingly, the document adheres to the published standards of the MSA; the Operational Guidelines, Fishery Management Plan Process; the Essential Fish Habitat Guidelines; the National Standard Guidelines; and NOAA Administrative Order 216-6, Environmental Review Procedures for Implementing the National Environmental Policy Act. This information product, and the assessments it builds off, use information of known quality from sources acceptable to the relevant scientific and technical communities. Several sources of data were used in the development of the specifications package. These data sources included, but were not limited to, historical and current commercial landings data from the Commercial Dealer database, historical and current recreational landings data from the Marine Recreational Information Program, vessel trip report (VTR) data, and fisheries independent data collected through the NMFS bottom trawl surveys. The analyses contained in this document, and in the Environmental Assessment and supplemental Environmental Assessment that this document builds off of, were prepared using data from accepted sources. The analyses have been reviewed by members of the Summer Flounder, Scup, and Black Sea Bass Monitoring Committee and/or by the Council’s Scientific and Statistical Committee where appropriate.

Conservation and management measures considered for this action were selected based upon the best scientific information available. The analyses important to this decision used the most recent data available. The data used in the specifications analyses provide the best available information on the number of permits, both active and inactive, in the fishery, the catch (including landings and discards) by those vessels, the landings per unit of effort, and the revenue produced by the sale of those landings to dealers. No updates to that information were deemed appropriate for this action. Specialists (including professional members of plan development teams, technical teams, committees, and Council staff) who worked with these data are familiar with the most current analytical techniques and with the available data and information relevant to the fishery. The policy choice is clearly articulated in Section 2.0 of this document, and the proposed measures are described in section 4.0 of this document. The supporting science and analyses, upon which the policy choice was based, are summarized and described in sections 4.0 and 6.0 of this document, and in the 2014-2015 specifications EA and the SEA for the 2014 recreational measures. All supporting materials, information, data, and analyses within this document have been, to the maximum extent practicable, properly referenced according to commonly accepted standards for scientific literature to ensure transparency. The review process used in preparation of this document involves the responsible Council, the Northeast Fisheries Science Center (Center), the Greater Atlantic Regional Fisheries Office, and NOAA Fisheries Service Headquarters. The Center’s technical review is conducted by senior level scientists with specialties in population dynamics, stock assessment methods, population biology, and the social sciences. The Council review process involves public meetings at which affected stakeholders

have opportunity to provide comments on the document. Review by staff at the Regional Office is conducted by those with expertise in fisheries management and policy, habitat conservation, protected species, and compliance with the applicable law. Final approval of the action proposed in this document and clearance of any rules prepared to implement resulting regulations is conducted by staff at NOAA Fisheries Service Headquarters, the Department of Commerce, and the U.S. Office of Management and Budget. In preparing this action, NMFS must comply with the requirements of the MSA, the National Environmental Policy Act, the Administrative Procedure Act, the Paperwork Reduction Act, the Coastal Zone Management Act, the Endangered Species Act, the Marine Mammal Protection Act, the Information Quality Act, and Executive Orders 12630 (Property Rights), 12866 (Regulatory Planning), 13132 (Federalism), and 13158 (Marine Protected Areas). The Council has determined that the proposed action is consistent with the National Standards of the MSA and all other applicable laws.

9.8 Paperwork Reduction Act (PRA)

The 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. The Council is not proposing measures under this regulatory action that require review under PRA. There are no changes to existing reporting requirements previously approved under this FMP. This action does not contain a collection-of-information requirement for purposes of the PRA.

9.9 Regulatory Impact Review (RIR)

9.9.1 Introduction

NMFS requires the preparation of a Regulatory Impact Review (RIR) for all regulatory actions that either implement a new FMP or significantly amend an existing plan. This RIR is part of the process of preparing and reviewing FMPs and provides a comprehensive review of the changes in net economic benefits to society associated with proposed regulatory actions. This analysis also provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problems. The purpose of this analysis is to ensure that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost-effective way. This RIR addresses many items in the regulatory philosophy and principles of Executive Order (E.O.) 12866.

9.9.2 Description of Management Objectives

A complete description of the purpose and need and objectives of this action is found under section 2.0 of this document. This action is taken under the authority of the MSA and regulations at 50 CFR part 648.

The objectives of the Summer Flounder, Scup, and Black Sea Bass FMP are as follows:

1. Reduce fishing mortality in the summer flounder, scup, and black sea bass fisheries to ensure that overfishing does not occur;
2. Reduce fishing mortality on immature summer flounder, scup, and black sea bass to increase spawning stock biomass;

3. Improve the yield from the fishery;
4. Promote compatible management regulations between state and federal jurisdictions;
5. Promote uniform and effective enforcement of regulations; and
6. Minimize regulations to achieve the management objectives stated above.

Consistent with these objectives, this action seeks to modify existing recreational measures so that the recreational fishery may achieve, but not exceed, the recreational harvest limit. The proposed modifications to the federal measures are consistent with the joint recommendations of the Council and the Atlantic States Marine Fisheries Commission. There are no expected adverse impacts on yield, management compatibility, or enforcement.

9.9.3 Description of the Fishery

A description of the summer flounder, scup, and black sea bass fisheries is presented in section 6.0 of the EA and in section 6.0 of the supplemental EA. A description of ports and communities is found in Amendment 13 to the Summer Flounder, Scup, and Black Sea Bass FMP. Additional information on "Community Profiles for the Northeast US Fisheries" can be found at:

<http://www.nefsc.noaa.gov/read/socialsci/communityProfiles.html>.

An analysis of permit data is found in section 6.4 of the EA. Additional characterization of these fisheries is presented in sections 6.0 of the supplemental EA.

9.9.4 Statement of the Problem

The purpose of the measures proposed in this action is described in section 2.0 of this document.

9.9.5 Description of the Alternatives

The proposed options under this action are described in section 4.0 of this document. These options do not substantially differ from the range of alternatives previously analyzed under the 2014 supplemental EA. A full description of those previously analyzed alternatives analyzed in this section is presented in section 5.0 of the SEA. A full description of the recreational harvest limit derivation process is presented in sections 4.1 and 5.0 of the EA.

9.9.6 RIR Impacts

The proposed action does not constitute a significant regulatory action under E.O. 12866 for the following reasons.

First, it will not have an annual effect on the economy of more than \$100 million. The measures considered in this regulatory action will not affect gross revenues or indirect and induced effects generated by the commercial, party/charter, private/rental, or other sectors offering goods and services to anglers engaged in the summer flounder, scup, and black sea bass fisheries to the extent that an annual \$100 million economic impact will occur in any of these fisheries individually or combined.

Summer flounder measures under conservation equivalency are established by individual states and are not finalized by this action. As described in Section XX of the above Supplemental Information Report, we do not expect any change in the state recreational management measures for 2015, relative to 2014, for summer flounder or scup. The black sea bass regulations for some

states (MA-NJ) are expected to be more restrictive, however, those measures are not proposed in this action. The Federal waters black sea bass measures are, with a slight modification, fundamentally the same as 2014. The analysis below should be considered the “worse-case” scenario in terms of potential impacts from the proposed measures. As such, even the “worse-case” impacts would not be expected to result in an annual economic impact of \$100 million.

Projected data from MRIP indicate that 25.4 million recreational fishing trips (for all species) were taken in the northeast region (ME-NC) in 2014. The breakdown of angler fishing trips by mode in 2014 was 1.49 million party/charter boat trips, 12.49 million private/rental boat trips, and 11.44 million shore trips (Table 7).

Table 7. Total estimated angler effort (fishing trips) by state, in 2014.^a

State	Party/Charter	Private/Rental	Shore
ME	27,541	187,002	325,594
NH	63,019	112,556	33,499
MA	172,298	1,576,345	1,569,206
RI	43,126	491,371	554,809
CT	52,664	860,494	435,158
NY	393,174	2,155,287	1,342,768
NJ	437,960	2,498,974	1,841,324
DE	21,735	357,481	457,107
MD	144,385	1,377,790	866,753
VA	36,209	1,196,222	908,443
NC	95,969	1,679,588	3,106,608
Total	1,488,081	12,493,110	11,441,269

^aValues estimated from preliminary MRIP data. Source: Scott Steinback, NMFS/NER/NEFSC

Fishing impacts for proposed 2015 measures were compared to those expected under status quo (2014) measures. Angling effort from year to year is difficult to predict due to numerous influential factors (multiple covariates); therefore, for purposes of examining fishing impacts, it was assumed that angler effort in 2015 will be the same as that estimated for 2014. Fishing impacts were first examined by estimating the number of recreational fishing trips in 2014 that would have been “affected” by the proposed 2015 management measures. That is, impacted trips were defined as trips taken in 2014 that landed at least one fish smaller than the proposed summer flounder, scup, or black sea bass minimum size regulations, or landed more summer flounder, scup, or black sea bass than the proposed possession limit allowed, or landed summer flounder, scup, or black sea bass during the proposed closed seasons. Since it is assumed that the number of angler trips in 2015 will be the same as that estimated for 2014, this results in an estimate of affected (i.e., impacted) angler trips in 2015. The percentages of trips impacted by the proposed regulations are presented by mode in Table 8. The largest percent of angler trips that are estimated to be impacted by the proposed management measures are party/charter trips, followed by private/rental trips and shore trips. More specifically, the proposed 2015 measures could affect 2.0 percent of the party/charter boat trips, 1.16 percent of the private/rental boat trips, and 0.01 percent of the shore trips. The current 2014 measures, if continued into 2015 (*status quo*) could affect 2.2 percent of the party/charter boat trips, 1.16 percent of the private/rental boat trips, and 0.02 percent of the shore trips (Table 8). If the proposed measures

result in an overall reduction in angler effort, expenditures associated with these trips will be foregone, and reductions in sales, income, and employment will occur for businesses that supply goods and services to saltwater fishermen. In addition, the sales, income, and employment of many businesses that supply the directly affected businesses could also decline.

Table 8. Projected number of affected angler trips in 2015 under the proposed measures and under current (2014) measures, by mode (assumes 2015 effort is equal to 2014 effort).

	Party/Charter			Private/Rental			Shore		
	Affected Trips	Total Trips	% of Total Trips	Affected Trips	Total Trips	% of Total Trips	Affected Trips	Total Trips	% of Total Trips
<i>Status quo</i> (2014 measures)	32,702	1,488,081	2.20	145,081	12,493,110	1.16	1,861	11,441,269	0.00
Proposed 2015 measures	28,966	1,488,081	2.00	145,081	12,493,110	1.16	1,324	11,441,269	0.01

Source: Scott Steinback, NMFS/NER/NEFSC.

It is important to restate that the affected angler trips under the proposed regulations, shown in Table 8, were defined as trips taken in 2014 that landed at least one fish smaller than the proposed summer flounder, scup, or black sea bass minimum size regulations for 2015, or landed more summer flounder, scup, or black sea bass than the proposed possession limit allows for 2015, or landed summer flounder, scup, or black sea bass during the proposed closed seasons for 2015. That is, angler trips taken in 2014 that would not be allowed (i.e., "affected trips" under regulations considered) by the 2015 management measures. However, while this indicates the potential number of constrained angler trips due to the 2015 regulations, we cannot predict with certainty the magnitude of the change in fishing trips due to the fact that there is very little information available to empirically estimate how sensitive the affected anglers might be to the proposed fishing regulations. Furthermore, just because a trip is considered "affected" by the proposed regulations does not necessarily mean that that trip will not be taken at all, as some anglers may engage in catch and release fishing or may transfer their effort to alternative species due to management changes in 2015.

Thus, there is not a direct, clear relationship between the number of "affected" trips and a change in trip taking behavior. It should be noted that even under less restrictive recreational management measures, there may be anglers' trips that are impacted. Since no empirical information is available to determine how anglers' trip taking behavior will change upon implementation of the proposed regulations, in order to conduct a more comprehensive analysis and to provide some bounds on the potential impacts, economic losses were estimated for two hypothetical scenarios with potential reductions in the number of affected fishing trips. Specifically, the two hypothetical scenarios consisted of: 1) a 10 percent reduction in the number of angler fishing trips *that are predicted to be affected by implementation of the proposed measures*, and 2) a 20 percent reduction in the number of fishing trips *that are predicted to be affected by implementation of the proposed measures*. Because there is very little information available to empirically estimate how sensitive the affected anglers might be to the proposed

fishing regulations, staff uses these hypothetical values to assess potential adverse economic impacts in an attempt to bound the potential changes in gross revenues (i.e., examine worst case scenarios) in number of angler fishing trips that could potentially occur given changes in analyzed management measures.

The projected regional economic losses associated with the hypothetical reductions in affected marine recreational fishing trips are shown in Tables 9 (assumes a 10 percent reduction in affected trips) and 10 (assumes a 20 percent reduction in affected trips). In total, the projected sales, income, and employment losses to the Northeast Region vary slightly between the *status quo* and proposed 2015 measures. For a 10 percent reduction in affected fishing trips, total losses to the Northeast region range from \$2.1 million to \$2.3 million in sales, \$716 thousand to \$762 thousand in income, and between 26 and 28 jobs (Table 9). The estimated losses are approximately two times higher if a 20 percent reduction in affected trips is assumed to occur (Table 10).

Table 9. Regional economic losses of combined management measures assuming a 10 percent reduction in the number of affected trips (2014 \$'s).

	Party/Charter			Private/Rental			Shore			Total		
	Sales (thousand dollars)	Income	Jobs									
<i>Status quo</i> (2014)	1,170	398	13	1,083	361	14	10	4	0	2,263	762	28
Proposed 2015	1,036	353	12	1,083	361	14	7	2	0	2,127	716	26

Source: Scott Steinback, NMFS/NER/NEFSC.

Table 10. Regional economic losses of combined management measures assuming a 20 percent reduction in the number of affected trips (2014 \$'s).

	Party/Charter			Private/Rental			Shore			Total		
	Sales (thousand dollars)	Income	Jobs									
<i>Status quo</i> (2014)	2,340	796	26	2,174	721	29	21	7	0	5,658	1,906	69
Proposed 2015	2,073	705	23	2,174	721	29	15	5	0	5,317	1,790	65

Source: Scott Steinback, NMFS/NER/NEFSC.

Revenue losses to party/charter vessels (regulated entities) were estimated by multiplying the number of potentially affected angler trips in 2015, under the two hypothetical scenarios, by the estimated average access fee paid by party/charter anglers in the Northeast region in 2014 (\$117.89).⁴ It is expected that under the proposed 2015 recreational measures, revenues for the for-hire sector will decline by \$231,182 assuming a 10 percent reduction in affected trips and \$462,365 assuming a 20 percent reduction in affected trips.

⁴ The 2011 party/charter average expenditure estimate (\$113.44) was adjusted to its 2014 equivalent using the Bureau of Labor's Consumer Price Index.

Approximately 50 percent of the total sales, income, and employment losses are projected to be generated by anglers fishing from private/rental boats. Losses associated with reductions in party/charter effort comprise approximately 40 percent of potential region-wide reductions, while the remaining 10 percent is associated with shore mode effort changes. This large disparity in losses between the private boat mode and the shore and party/charter mode is generally due to the fact that the measures proposed under all combinations of alternatives are projected to affect substantially more private/rental boat trips and party/charter trips than shore trips.

As described in the original 2014-2015 Specifications EA and the Supplemental EA for 2014 recreational specifications, the long-term biological effects of each of the proposed management options are clear: summer flounder, scup, and black sea bass will continue to be managed sustainably as a result of the accumulated effects of these measures applied over time. Although the long-term effects of these alternatives are less clear or quantifiable from a social and economic perspective, rebuilt stocks would presumably provide anglers with the ability to increase catch and possibly keep rates resulting in higher overall welfare benefits to anglers and the Nation as a whole. Therefore, this action should not adversely affect, in the long-term, competition, jobs, the environment, public health or safety, or state, local, or tribal government communities. In addition, this action should not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. No other agency has indicated that it plans an action that will affect the summer flounder, scup or black sea bass fisheries in the EEZ. However, future regulations implemented under the Northeast Multispecies FMP may induce party/charter boat operators to switch from targeting Atlantic cod and/or haddock on some of their trips to targeting summer flounder, scup, or black sea bass. Although this switching behavior is not predicted to be significant, this may have a negative effect on fishery management objectives and cause increased competition within party/charter fishing communities dependent on summer flounder, scup, and black sea bass. Further, this action will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of their participants. And, finally, the proposed action does not raise novel legal or policy issues arising out of legal mandates or the President's priorities.

9.10 Regulatory Flexibility Analysis (RFA)

9.10.1 Impacts on Regulated Small Entities

The Regulatory Flexibility Act (RFA) requires the Federal rulemaker to examine the impacts of proposed and existing rules on small businesses, small organizations, and small governmental jurisdictions. The RFA emphasizes predicting significant adverse impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts, while still achieving the stated objective of the action. When an agency publishes a proposed rule, it must either, (1) “certify” that the action will not have a significant adverse impact on a substantial number of small entities, and support such a certification declaration with a “factual basis”, demonstrating this outcome, or, (2) if such a certification cannot be supported by a factual basis, prepare and make available for public review an Initial Regulatory Flexibility Analysis (IRFA) that describes the impact of the proposed rule on small entities.

This document provides the factual basis supporting a certification that the proposed regulations will not have a “significant impact on a substantial number of small entities” and that an IRFA is

not needed in this case. Certifying an action must include the following elements, and each element is subsequently elaborated upon below:

- A. A statement of basis and purpose of the rule
- B. A description and estimate of the number of small entities to which the rule applies
- C. Description and estimate of economic impacts on small entities, by entity size and Industry
- D. An explanation of the criteria used to evaluate whether the rule would impose significant economic impacts
- E. An explanation of the criteria used to evaluate whether the rule would impose impacts on a substantial number of small entities
- F. A description of, and an explanation of the basis for, assumptions used

A – Basis and purpose of the rule

The basis of the rule proposed in this action are the provisions of the MSA for Federal fishery management to prevent overfishing, and achieve optimum yield. Optimum yield is defined as the amount of fish which will achieve the maximum sustainable yield, as reduced by any relevant economic, social, or ecological factor. The proposed measures maintain or slightly modify the current summer flounder, scup, and black sea bass recreational management measures in place for federal waters. As described in Section 4.0 of the Supplemental Information Report, the proposed action would maintain the current conservation equivalency management approach for recreational summer flounder, increase the recreational scup possession limit from 30 to 50 fish, and adjust the recreational black sea bass season to account for a previous modification to the opening date. This black sea bass modification results in fundamentally the same federal management measures for 2015 as were in place for 2014. The purpose of this rule is to implement recreational management measures designed to achieve, but not exceed, the previously established recreational harvest limits for these three species.

B – Description and estimate of the number of small entities to which the rule applies

The small entities that would be affected by this action include for-hire operations that take people fishing. The Small Business Administration (SBA) defines a small commercial fishing business as a firm with annual receipts (gross revenue) of up to \$20.5 million. A small commercial shell-fishing business is a firm with annual receipts up to \$5.5 million, and small for-hire recreational fishing businesses are defined as firms with receipts of up to \$7.5 million. Having different size standards for different types of fishing activities creates difficulties in categorizing businesses that participate in multiple fishing related activities. For purposes of this assessment business entities have been classified into the SBA-defined categories based on which activity produced the highest percentage of average annual gross revenues from 2011-2013. This classification is now possible because vessel ownership data has been added to Northeast permit database. The ownership data identifies all individuals who own fishing vessels. Using this information, vessels can be grouped together according to common owners. The resulting groupings were treated as a fishing business for purposes of this analysis. Revenues summed across all vessels in a group and the activities that generate those revenues form the basis for determining whether the entity is a large or small business.

The proposed regulations include closed seasons in addition to possession limits and size limits. For purposes of this analysis it assumed that for-hire businesses are directly affected by all three types of recreational fishing restrictions. According to the FMP, it is unlawful for the owner and operator of a party or charter boat issued a summer flounder permit (including a moratorium permit), when the boat is carrying passengers for hire or carrying more than three crew members if a charter boat or more than five members if a party boat, to:

- (ii) Possess summer flounder in excess of the possession limit established pursuant to §648.106.
- (iii) Fish for summer flounder other than during a season specified pursuant to §648.105.
- (iv) Sell or transfer summer flounder to another person for a commercial purpose.

Similar language can be found for scup and black sea bass in the FMP. As the for-hire owner and operator can be prosecuted under the law for violations of the proposed regulations, for-hire business entities are considered directly affected in this analysis. Anglers are not considered “entities” under the RFA and thus economic impacts on anglers are not discussed here. Economic impacts on anglers are discussed in section 7.3.2 (Socioeconomic Cumulative Impacts) of the supplemental EA.

While all business entities that hold for-hire permits for summer flounder, scup, or black sea bass could be directly affected by the proposed regulations, not all business entities that hold for-hire permits actively participate in a given year. Those who actively participate, i.e., land fish, would be the group of business entities that are directly impacted by the regulations. Latent fishing power (in the form of unfished permits) represents a potential considerable force to alter the impacts on a fishery, but it is not possible to predict how many of these latent business entities will or will not participate in these fisheries in 2015. The affected entities are described in detail in section 8.11.1.6 of the EA. Recent landing patterns among ports are presented in the EA in section 6.4.3 and an analysis of permit data is found in section 6.4.4. A description of the summer flounder, scup, and black sea bass fisheries is presented in section 6.0 of the supplemental EA and section 3.0 of Amendment 13 to the FMP (MAFMC 2002). A description of ports and communities that are dependent on summer flounder, scup, and black sea bass is found in section 3.4.2 of Amendment 13 to the FMP. Additional information on "Community Profiles for the Northeast US Fisheries" can be found at <http://www.nefsc.noaa.gov/read/socialsci/communityProfiles.html>.

Data from the Northeast permit database indicates that in 2013, the most recent year for which there is a complete set of data, there were 856 for-hire recreational fishing vessels permitted to take part in the summer flounder, scup, and/or black sea bass fisheries in the EEZ (see EA for additional details). However, the Northeast landings database (Vessel Trip Report or VTR Data) indicates that less than half of these vessel (350) actively participated in the summer flounder, scup, and/or black sea bass fisheries in the Northeast in 2013 (Table 11).

Based on the ownership data classification process described above, the 350 actively participating for-hire vessels were found to be owned by 326 unique fishing business entities. The vast majority of these fishing businesses were solely engaged in for-hire fishing, but some also participated in shellfish and/or finfish fishing. For-hire fishing generated the highest percentage of gross revenue for 299 of the 326 fishing business entities in 2013. The remaining 27 fishing businesses entities received a higher percentage of gross revenue from finfish fishing

(22) and shellfish fishing (5) in 2013. Therefore, for purposes of this analysis, of the 326 affected business entities, 299 are classified as for-hire business entities, 22 as finfish business entities, and 5 as shellfish business entities.

Table 11. Summary of landings combinations by vessels reporting party/charter trips (calendar year 2013 VTR Data). Fluke = summer flounder; BSB = black sea bass.

State	Landed Fluke, BSB, and Scup	Landed BSB Only	Landed BSB and Scup	Landed BSB and Fluke	Landed Scup Only	Landed Fluke Only	Landed Fluke and Scup	Total
ME	0	2	0	0	0	0	0	2
NH	0	3	0	0	0	0	0	3
MA	12	5	12	2	0	3	0	34
RI	23	1	3	8	0	6	1	42
CT	10	0	0	1	2	1	0	14
NY	77	1	5	12	0	7	1	103
NJ	30	6	1	53	0	18	1	109
DE	5	3	0	15	0	2	0	25
MD	2	2	0	3	0	0	0	7
VA	0	4	0	5	0	1	0	10
NC	0	0	0	1	0	0	0	1
Total	159	27	21	100	2	38	3	350

Source: Scott Steinback, NMFS/NER/NEFSC.

According to the SBA size standards small for-hire businesses are defined as firms with annual receipts of up to \$7.5 million, small finfish businesses as firms with annual receipts of up to \$20.5 million, and small shellfish businesses as firms with receipts of up to \$5.5 million.

Average annual gross revenue estimates calculated from the most recent three years (2011-2013) indicate that none of the 299 for-hire business entities had annual receipts of more than \$2.4 million from all of their fishing activities (for-hire, shellfish, and finfish). Therefore, all of the affected for-hire business entities are considered “small” by the SBA size standards and thus this action will not disproportionately affect small versus large for-hire business entities.

The highest average annual gross revenue estimate for the 22 finfish business entities was \$839 thousand from all of their fishing activities (finfish, for-hire, and shellfish) so all of the affected finfish business entities are also considered “small” by the SBA size standards. For the remaining 5 affected shellfish business entities, 4 are considered “small” businesses according to the SBA size standards and 1 “large.” The one “large” shellfish business had average annual receipts (2011-2013) from all fishing activities of \$5.8 million.

C – Description and estimate of economic impacts on small entities

Because the proposed measures for federal waters maintain or slightly modify the current recreational management measures, the economic impacts on small entities range from neutral to slightly positive, when compared to the status quo (as described in the supplemental EA; MAFMC 2014b).

D/E – An explanation of the criteria used to evaluate whether the rule would impose significant economic impacts/ An explanation of the criteria used to evaluate whether the rule would impose impacts on a substantial number of small entities

The analysis described here should be considered the “worse-case” scenario. Because the summer flounder measures are established by the states, the analysis described below is based on the “non-preferred coastwide” measures; however, those measures are not expected to be necessary. States provide their proposed measures to the Commission, and the Commission then certifies to NMFS that, collectively, they provide the same level of catch (or conservation) as the coast-wide measures. This system allows states to provide the most fishing opportunity within the constraints of the recreational harvest limit. Summer flounder are available in different sizes and seasons up and down the Atlantic coast. Coastwide measures can result in disproportionate impacts on residents of different states if the minimum size is larger than the summer flounder typically found in their waters or if the season opens later or closes sooner than when the fish have migrated into that state. For scup and black sea bass, the Federal measures, as proposed in this action, are less restrictive than the state measures and functionally equivalent to the 2014 measures. Therefore, these measures are not expected to result any impact to the fishery.

The following analysis demonstrates that even these “worse-case”, hypothetical scenarios would not “have a significant adverse impact on a substantial number of small entities,” and provides the factual basis for why a Regulatory Flexibility Analysis is not necessary.

Analysis of Impacts of Proposed Measures

This analysis will present information relative to the impacts of this proposed action on small entities. Specifically, assessments of potential changes in gross revenues for the three alternatives proposed in this action were conducted for the affected fishing business entities in the Northeast.⁵ Estimates of the impacts upon profitability are not provided because of data limitations. As such, potential changes in gross revenues for the business entities participating in these recreational fisheries were estimated by employing various assumptions which are described below. The effects of these actions were analyzed by employing quantitative approaches to the extent possible. Where quantitative data were not available, qualitative analyses were conducted.

Impacts were first examined by estimating the number of recreational fishing trips in 2014 that would have been “affected” by the proposed 2015 management measures. Since it is assumed that the number of angler trips in 2015 will be the same as that estimated for 2014, this results in an estimate of affected (i.e., impacted) angler trips in 2015. Preliminary MRIP data for all six waves in 2014 were used in the assessment. Tables 12 and 13 show the estimated affected angler fishing effort aboard party/charter vessels by state for the *status quo* measures and for the proposed 2015 measures, respectively. The estimated number of affected angler fishing trips under the proposed 2015 measures ranges from ranges from 54 trips in DE to 20,420 trips in NJ

(with 6 states showing zero trips impacted; Table 12). Under the *status quo* (2014) measures, the estimated number of affected fishing trips shows a similar range of impacted trips, except in MA where the affected number of trips increases from 463 to 3,985 (Table 13).

Table 12: Affected party/charter angler effort by state under the proposed 2015 recreational measures.

State	MRIP Projected Total Estimated Angler Effort in 2014 Aboard Party/Charter Boats	Estimated Percent of Angler Party/Charter Effort Subject to Measures	Estimated Angler Trips Aboard Party/Charter Boats Subject to Measures
ME	27,541	0.0%	0
NH	63,019	0.0%	0
MA	172,298	0.27%	463
RI	43,126	6.9%	2,970
CT	52,664	0.0%	0
NY	393,174	1.3%	5,023
NJ	437,960	4.7%	20,420
DE	21,735	0.25%	54
MD	144,385	0.0%	0
VA	36,209	0.0%	0
NC	95,969	0.0%	0

Source: Scott Steinback, NMFS/NER/NEFSC.

Table 13: Affected party/charter angler effort by state under the *status quo* 2014 measures.

State	MRIP Projected Total Estimated Angler Effort in 2014 Aboard Party/Charter Boats	Estimated Percent of Angler Party/Charter Effort Subject to Measures	Estimated Angler Trips Aboard Party/Charter Boats Subject to Measures
ME	27,541	0.0%	0
NH	63,019	0.0%	0
MA	172,298	2.3%	3,985
RI	43,126	7.4%	3,185
CT	52,664	0.0%	0
NY	393,174	1.28%	5,023
NJ	437,960	4.7%	20,426
DE	21,735	0.25%	54
MD	144,385	0.0%	0
VA	36,209	0.0%	0
NC	95,969	0.0%	0

Source: Scott Steinback, NMFS/NER/NEFSC.

Unfortunately, there is no readily available information to determine how sensitive the “affected” anglers might be to the proposed management changes. If the proposed measures discourage trip-taking behavior among some of the affected anglers, economic losses may accrue to the party/charter boat industry in the form of reduced access fees. On the other hand, if the proposed measures do not have a negative impact on the value or satisfaction the affected anglers derive from their fishing trips then party/charter revenues would remain unaffected by this action. In an attempt to bound the potential changes in gross revenues to the party/charter boat industry in each state, economic losses were estimated under two hypothetical scenarios: (1) a 10 percent reduction in the number of for-hire angler fishing trips that are predicted to be affected by implementation of the management measures in the northeast region in 2015; and (2) a 20

percent reduction in the number of for-hire angler fishing trips that are predicted to be affected in the northeast region in 2015.

The hypothetical reductions in for-hire angler fishing trips were calculated by multiplying the number of affected trips by state, shown in Tables 12 and 13, by 0.10 and 0.20 respectively. For-hire revenue associated with these lost angler trips was then calculated from the estimated average access fee paid by party/charter anglers in the northeast region in 2014 (\$117.89).⁶ The recreational fishing expenditure data used in this analysis were presented in detail in section 7.5.6 of the EA (i.e., socioeconomic discussion). Revenue losses were then subtracted from each for-hire business entity's total average gross revenues (i.e., average annual gross revenues from all fishing activities during 2011-2013) to determine the potential change in total gross revenue. Tables 14-17 show the business entity revenue impacts by state for each management strategy (*status quo* or preferred 2015 measures) under the two hypothetical reduction scenarios.

Table 14. Business entity revenue impacts by home port state under the proposed 2015 measures, assuming a 10 percent reduction in affected angler fishing effort.

State	Number of Business Entities	Percent Change in Business Entity Revenue							
		0	<5	5-9	10-19	20-29	30-39	40-49	≥50
ME	2	2							
NH	3	3							
MA	31		31						
RI	41		39	2					
CT	13	13							
NY	93		93						
NJ	104		104						
DE	23		23						
MD	7	7							
VA	8	8							
NC	1	1							

Source: Scott Steinback, NMFS/NER/NEFSC.

⁶ The 2011 party/charter average expenditure estimate (\$113.44) was adjusted to its 2014 equivalent using the Bureau of Labor's Consumer Price Index.

Table 15. Business entity revenue impacts by home port state under the proposed 2015 measures, assuming a 20 percent reduction in affected angler fishing effort.

State	Number of Business Entities	Percent Change in Business Entity Revenue							
		0	<5	5-9	10-19	20-29	30-39	40-49	≥50
ME	2	2							
NH	3	3							
MA	31		31						
RI	41		24	15	2				
CT	13	13							
NY	93		93						
NJ	104		96	8					
DE	23		23						
MD	7	7							
VA	8	8							
NC	1	1							

Source: Scott Steinback, NMFS/NER/NEFSC.

Table 16. Business entity revenue impacts by home port state under the *status quo* (2014) measures, assuming a 10 percent reduction in affected angler fishing effort.

State	Number of Business Entities	Percent Change in Business Entity Revenue							
		0	<5	5-9	10-19	20-29	30-39	40-49	≥50
ME	2	2							
NH	3	3							
MA	31		28	3					
RI	41		39	2					
CT	13	13							
NY	93		93						
NJ	104		104						
DE	23		23						
MD	7	7							
VA	8	8							
NC	1	1							

Source: Scott Steinback, NMFS/NER/NEFSC.

Table 17. Business entity revenue impacts by home port state under the *status quo* (2014) measures, assuming a 20 percent reduction in affected angler fishing effort.

State	Number of Business Entities	Percent Change in Business Entity Revenue							
		0	<5	5-9	10-19	20-29	30-39	40-49	≥50
ME	2	2							
NH	3	3							
MA	31		20	6	5				
RI	41		21	18	2				
CT	13	13							
NY	93		93						
NJ	104		96	8					
DE	23		23						
MD	7								
VA	8	8							
NC	1	1							

The proposed measures for summer flounder, scup, and black sea bass as well as the *status quo* measures could affect business entity revenue to some extent in all of the northeast coastal states in 2015. There were actively participating business entities engaged in for-hire fishing for summer flounder, scup, or black sea bass in all northeast coastal states during the last year of available permit data (2013; Table 11). However, business entities operating out of ME, NH, CT, MD, VA, and NC will likely be unaffected by implementation of any one of the three management alternatives. Two business entities in ME, three in NH, thirteen in CT, seven in MD, eight in VA, and one in NC carried for-hire anglers that landed summer flounder, scup, or black sea bass in 2014, but all of the fish landed on those trips would not have been constrained by any of the 2015 regulations proposed. Thus, the analysis shows that the proposed 2015 alternatives are unlikely to have an impact on business entity revenue in those states. Fishing business entities operating out of the remaining northeast coast states of MA, RI, NY, NJ, and DE are more likely to be impacted by the proposed action. The analysis constructed here estimates for-hire business losses associated with a 10 and 20 percent decline in affected for-hire angler trips. Under the assumption of a 10 percent decline, approximately 98 percent of the business entities operating out of MA, RI, NY, NJ, and DE are estimated to lose less than 5 percent of their total gross revenue in 2015 from the proposed action. Three business entities operating out of MA are estimated to lose between 5-9 percent under *status quo* measures or the proposed 2015 measures, and 2 business entities operating out of RI are also estimated to lose between 5-9 percent under the proposed 2015 measures. Gross revenue losses for business entities in all other states are not estimated to exceed 5 percent under either management scenario.

Under the assumption of a 20% decline in affected fishing effort, most business entities with home ports in MA, RI, NY, NJ, and DE are still estimated to lose less than 5 percent of their total gross revenue in 2015 from the proposed action. Six business entities in MA, 18 in RI, and 8 in

NJ are estimated to lose between 5-9 percent of their total gross revenue in 2015 under either management scenario. An additional 5 entities in MA and 2 in RI are estimated to lose between 10-19 percent of their total gross revenue.

It is important to point out that actual gross revenue losses in 2015 will almost certainly be lower than described above for several reasons. First, the Council and Commission voted to recommend summer flounder conservation equivalency measures to achieve the 2015 recreational harvest limit. Conservation equivalency allows each state to tailor specific recreational fishing measures to the needs of their state, while still achieving conservation goals, so it is likely that these measures will have lower overall adverse effects in 2015 than any of the combinations that were analyzed.

Secondly, the universe of party/charter vessels that participates in the summer flounder, scup, and black sea bass fisheries is likely to be even larger than presented in this analysis. Party/charter vessels that do not possess a federal summer flounder, scup, or black sea bass permit because they only fish in state waters are not represented in this assessment. Considering that 95, 96, and 64 percent of the landings of summer flounder, scup, and black sea bass in 2011, respectively, were caught in state waters, it is probable that some party/charter vessels fish only in state waters and, thus, do not hold federal permits for these species. Therefore, the party/charter losses shown in this assessment would be spread over a greater number of business entities resulting in lower estimated losses.

Lastly, economic losses are estimated under two hypothetical scenarios: (1) a 10 percent reduction in the number of fishing trips that are predicted to be affected by implementation of the management measures in the Northeast Region in 2015; and (2) a 20 percent reduction in the number of fishing trips that are predicted to be affected in the Northeast Region in 2015. Reductions in fishing effort of this magnitude in 2015 are not likely to occur given the fact that the proposed measures do not prohibit anglers from keeping at least some of the fish they catch or the fact that there are alternative species to harvest. Steinback et al. (2009) estimate that only up to about 28 percent of marine anglers fishing in the Northeast US fish primarily to bring home fish to eat. The remaining 72 percent of anglers were found to fish primarily for recreational purposes and therefore likely place less importance on being able to keep fish. Findings of this study generally concur with previous studies that found non-catch reasons for participating in marine recreational fishing were rated much higher than keeping fish for food. In combination with alternative target species available to anglers, the findings of the Steinback et al. (2009) and many other peer-reviewed studies suggest that at least some of the potentially affected anglers would not reduce their overall fishing effort when faced with the proposed landings restrictions.

F – A description of, and an explanation of the basis for, assumptions

Other than those described directly in the above analyses, the primary assumption utilized in the above analysis to conclude that impacts should be minimal but positive is that the status quo or slightly modified management measures would result in approximately the same amount of fishing effort in 2015 as was seen in 2014. As described above, angling effort from year to year is difficult to predict due to numerous influential factors (multiple covariates); using the previous year's effort as a proxy for the next year is a reasonable approach to predicting potential impacts on regulated entities. In addition, the recreational harvest limits are relatively similar to those in place for 2014 – slightly higher for summer flounder (+5 percent) and black sea bass (+3

percent) and slightly lower for scup (-3 percent). Maintaining or slightly modifying the status quo management measures is expected to result in similar fishing effort in Federal waters in fishing year 2015 as was seen in 2014.

10.0 Preparers and Persons Consulted

For questions or to obtain a copy of the document, please contact:

Kiley Dancy, Fishery Management Specialist, Mid-Atlantic Fishery Management Council, kdancy@mafmc.org or 302-526-5257.

Preparers:

Kiley Dancy, Fishery Management Specialist, Mid-Atlantic Fishery Management Council, Dover, Delaware.

Persons consulted:

Scott Steinback. Economist, Northeast Fisheries Science Center, Woods Hole, MA.

Moira Kelly, Fishery Policy Analyst, NMFS Greater Atlantic Regional Fisheries Office, Gloucester Massachusetts.

Katherine Richardson, NEPA Policy Analyst, NMFS Greater Atlantic Regional Fisheries Office, Gloucester Massachusetts.

Jason Didden, Fishery Management Specialist, Mid-Atlantic Fishery Management Council, Dover, Delaware.

Julia Beaty, Assistant Plan Coordinator, Mid-Atlantic Fishery Management Council, Dover, Delaware.

José Montañez, Fishery Management Specialist, Mid-Atlantic Fishery Management Council, Dover, Delaware.

11.0 References

Lovell, Sabrina, Scott Steinback, and James Hilger. 2013. The Economic Contribution of Marine Angler Expenditures in the United States, 2011. U.S. Dep. Commerce, NOAA Tech. Memo. NMFS-F/SPO-134, 188 p.

Mid-Atlantic Fishery Management Council (MAFMC). 2014. Final Environmental Assessment for 2014-2015 Summer Flounder, Scup, and Black Sea Bass Specifications. Prepared by Council Staff in cooperation with the National Marine Fisheries Service, 182 p. Available at <http://www.greateratlantic.fisheries.noaa.gov/regs/2014/May/14sfsbsb20142015specsfr.html>.

Mid-Atlantic Fishery Management Council (MAFMC). 2014. Supplemental Environmental Assessment for 2014-2015 Summer Flounder, Scup, and Black Sea Bass Recreational Measures. Prepared by Council Staff in cooperation with the National Marine Fisheries Service, 85 p. Available at: <http://www.greateratlantic.fisheries.noaa.gov/regs/2014/July/14sfsbsb2014recspecsfr.html>.

Mid-Atlantic Fishery Management Council (MAFMC). 2014. Black Sea Bass Season May Opening Framework Adjustment (Framework 8), Supplemental Information Report (SIR). Prepared by Council Staff in cooperation with the National Marine Fisheries Service, 20 p. Available at: <http://www.greateratlantic.fisheries.noaa.gov/regs/2014/December/14bsbfw8pr.html>.

Steinback, S., K. Wallmo, P. Clay. 2009. Saltwater sport fishing for food or income in the Northeastern US: statistical estimates and policy implications. *Marine Policy* 33: 49-57.