

applicable to the proposed specifications since they apply only for one fishing year and will be reviewed, and modified as appropriate, by the Council and NMFS annually. The scup stock has shown signs of significant rebuilding and is no longer overfished. It is, therefore, not necessary for 2004 to deviate from the specified exploitation rate. Furthermore, setting the scup specifications using an exploitation rate of 21 percent is a more risk-averse approach to managing the resource than not setting any specifications until the Council submits, and NMFS approves, a revised rebuilding plan that complies with all Magnuson-Stevens Act requirements.

The Scup Monitoring Committee reviewed the available data in making its recommendation to the Council. The Scup Monitoring Committee recommended a scup TAC of 13.15 million lb (5,965 mt), and a TAL of 11.0 million lb (4,990 mt), *i.e.*, a 33-percent reduction from the 2003 TAL. The Council and Board rejected the Monitoring Committee's TAC and TAL recommendations, and instead adopted an 18.65-million lb (8,460-mt) TAC and a 16.5-million lb (7,484-mt) TAL (*i.e.*, the same amounts as implemented in 2003). The reduction proposed by the Monitoring Committee was in response to lower survey biomass index in the spring 2003 survey than in the spring 2002 survey. However, the reference point measure specified in the FMP is

a three-year moving average of the survey biomass index rather than a single index data point. The rationale of the Council and the Board for the rejection of the Monitoring Committee recommendation was based on a comparison of the three-year moving average biomass index calculated this year (3.31 kg/tow) compared with the index value calculated last year (3.30 kg/tow). Because the value for 2001 through 2003 is slightly higher than the value for 2000 through 2002, the Council did not support a recommendation for a 33-percent decrease in the scup quota. NMFS is proposing to implement the Council's and Board's TAC/TAL recommendation because it is considered likely to achieve the 21-percent exploitation rate that is required by the FMP.

Using the sector allocation specified in the FMP (commercial—78 percent; recreational—22 percent), the Council's recommendation would result in a commercial TAC of 14.55 million lb (6,600 mt) and a recreational TAC of 4.10 million lb (1,860 mt). Using the same commercial and recreational discard estimates used for the 2003 specifications (*i.e.*, 2.08 million lb (943 mt) for the commercial sector, and 70,000 lb (32 mt) for the recreational sector), the Scup MC recommendation would result in an initial commercial TAL of 12.47 million lb (5,656 mt) and recreational harvest limit of 4.03 million lb (1,828 mt). The Council and Board

also agreed to set aside 160,000 lb (73 mt) of the scup TAL for research activities. The TAL, after deducting the 160,000-lb (73-mt) RSA, would result in a commercial quota of 12.35 million lb (5,600 mt) and a recreational harvest limit of 3.99 million lb (1,812 mt).

NMFS is proposing to retain the current Winter period possession limits of 15,000 lb (6.8 mt) for Winter I (January–April), with a reduction to 1,000 lb (454 kg) when 80 percent of the Winter I quota is projected to be harvested, and 1,500 lb (680 kg) for Winter II (November–December). Public comments are requested on these proposed measures.

The final rule to implement Framework 3 to the FMP (68 FR 62250, November 3, 2003) implemented a process, for years in which the full Winter I commercial scup quota is not harvested, to allow unused quota from the Winter I period to be rolled over to the quota for the Winter II period. In any year that NMFS determines that the landings of scup during Winter I are less than the Winter I quota for that year, NMFS will, through a notification in the **Federal Register**, increase the Winter II quota for that year by the amount of the Winter I underharvest, and adjust the Winter II possession limits consistent with the amount of the quota increase, based on the possession limits presented in Table 2.

TABLE 2.—POTENTIAL INCREASE IN WINTER II POSSESSION LIMITS BASED ON THE AMOUNT OF SCUP ROLLED OVER FROM WINTER I TO WINTER II PERIOD

Initial Winter II possession limit		Rollover from Winter I to Winter II		Increase in initial Winter II possession limit		Final Winter II possession limit after rollover from Winter I to Winter II	
lb	kg	lb	mt	lb	kg	lb	kg
1,500 .....	680	0–499,999	0–227	0	0	1,500	680
1,500 .....	680	500,000–999,999	227–454	500	227	2,000	907
1,500 .....	680	1,000,000–1,499,999	454–680	1,000	454	2,500	1134
1,500 .....	680	1,500,000–1,999,999	680–907	1,500	680	3,000	1361
1,500 .....	680	2,000,000–2,500,000	907–1,134	2,000	907	3,500	1587

Table 3 presents the 2004 commercial allocation recommended by the Council with, and without, the 160,000-lb (73-mt) RSA deduction. These 2004

allocations are preliminary and may be subject to downward adjustment due to 2003 overages in the final rule implementing these specifications,

using the procedures for calculating overages described earlier.

TABLE 3.—2004 PROPOSED INITIAL TOTAL ALLOWABLE CATCH, COMMERCIAL SCUP QUOTA, AND POSSESSION LIMITS, IN LB (KG)

Period	Percent	TAC	Discards	Commercial quota	Commercial quotas less RSA	Possession limits
Winter I .....	45.11	6,563,505 (2,977,186)	938,288 (425,605)	5,625,217 (2,551,582)	5,568,920 (2,526,045)	<sup>1</sup> 15,0001 (6,804)
Summer .....	38.95	5,667,225 (2,570,636)	810,160 (367,486)	4,857,065 (2,203,150)	4,808,455 (2,181,101)	( <sup>3</sup> ) .....