

defined as a location in a non-Metropolitan Statistical Area (with Goldsmith modification, if possible). An additional payment for an emergency response will be paid if the condition as presented was an emergency condition and the supplier responded "immediately."

The Committee's eighth meeting is scheduled for January 24 through January 26, 2000. It is expected that this meeting will focus on evaluating the results of the rural modifier and preparing the Committee's official report. The Committee is expected to conclude its work by February 14, 2000.

The purpose of this final meeting is to allow Committee members to officially conclude the business of the Committee by signing and finalizing the Committee's official report. No other agenda has been established.

In accordance with Federal Advisory Committee Act requirements, this meeting is open to the public with advanced registration preferred. Public attendance at the meeting may be limited to space available. Mail written statements to the following address: Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, Attention: Lynn Sylvester.

A summary of all proceedings will be available for public inspection in Room 443-G of the Department's offices at 200 Independence Avenue, SW., Washington, DC on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Phone: (202) 690-7890), and can be accessed through the HCFA Internet site at <http://www.hcfa.gov/medicare/ambmain.htm>. Additional information related to the Committee will also be available on the web site.

**Authority:** Section 1834(l) of the Social Security Act (42 U.S.C. 1395m).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 24, 2000.

**Nancy-Ann Min DeParle,**

*Administrator, Health Care Financing Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[I.D. 092799B]

#### Fisheries of the Northeastern United States; Decision on Petition for Rulemaking for Seasonal Area Closures, Bycatch Quotas, and Related Measures to Reduce Scup Bycatch

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

**ACTION:** Notice of finding on petition for rulemaking.

**SUMMARY:** NMFS announces its decision not to undertake the rulemaking requested in a petition submitted by the Natural Resources Defense Council, the Environmental Defense Fund, the Center for Marine Conservation, the National Audubon Society, and the American Oceans Campaign (Petitioners). The Petitioners had petitioned NMFS and the Mid-Atlantic Fishery Management Council (Council) to implement emergency or other interim measures to reduce scup bycatch through seasonal area closures and a bycatch quota; monitor the *Loligo* squid fishery through a vessel monitoring system (VMS) and observers; and develop new gear designs. The Petitioners requested that these measures be put in place, beginning November 1999, to reduce the amount of scup caught incidentally in the *Loligo* squid fishery. The decision to deny the petition is based on the inclusion of similar provisions in the proposed 2000 specifications for summer flounder, scup, and black sea bass, which are published elsewhere in this issue of the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mark R. Millikin, Domestic Fisheries Division, NMFS, (301) 713-2341.

**SUPPLEMENTARY INFORMATION:** On October 14, 1999 (64 FR 55688), NMFS published a notice requesting public comments on an amended petition for rulemaking submitted by the Petitioners. The amended petition requested that NMFS implement, through emergency or other interim action, fishing restrictions in specified areas in 1999, with additional measures to be implemented in 2000 and beyond. The Petitioners requested measures to reduce the bycatch and associated mortality of juvenile scup caught in the small mesh *Loligo* squid fishery. For

1999, the Petitioners requested (1) a closure of the *Loligo* fishery in NMFS Northeast Statistical Area (area) 613 for the Winter II (November–December) season, (2) the imposition of a scup bycatch quota throughout the *Loligo* management unit for the Winter II season, or (3) both options (1) and (2). The Petitioners also requested the immediate implementation of the Council's Summer Flounder Monitoring Committee's recommendation to establish areas closed to the *Loligo* squid fishery in areas 537 and 539 during the Winter II season, and in areas 616 and 622 during the Winter I (January–April) season.

In addition, the Petitioners requested that NMFS establish adequate enforcement mechanisms and observer coverage for these bycatch-reduction measures. For instance, if area 613 were closed, the Petitioners suggested that NMFS require a VMS in the *Loligo* fleet. If a bycatch quota were implemented, the Petitioners suggested observer coverage be required at levels sufficient to ensure observations of a statistically significant percentage of *Loligo* catch. Finally, the Petitioners requested that, for 2001, NMFS and the Council oversee the development, testing, and implementation of appropriately modified gear as an effective and equitable means of reducing scup bycatch.

At about the same time the Petitioners were raising their concerns, the Council was developing annual specifications for the scup fishery. The Council's Monitoring Committee recommended extensive area restrictions similar to the areas recommended by the Petitioners. While the Council accepted the Committee's recommendation for restrictions beginning in the year 2000, they created a Scup Working Group comprised of some members of the Council, Atlantic States Marine Fisheries Commission, and industry to develop sub-areas within the larger restricted areas. The Council intended that these sub-areas would be restricted to reduce scup bycatch while minimizing the impacts on other fisheries. In addition to specifying an annual commercial quota, the sub-areas recommended by the Scup Working Group were submitted by the Council as part of the proposed 2000 specifications.

With the development of these restricted areas, the Council considered ways to reduce mortality on juvenile scup due to bycatch in small-mesh fisheries, including the *Loligo* fishery. In addition to restrictions in the *Loligo* squid fishery, the recommendation would restrict fishing in other fisheries utilizing small mesh, defined as less

than the scup minimum mesh size (4.5–in (11.4–cm) diamond mesh in the codend). Those other fisheries target herring, Atlantic mackerel, black sea bass, and whiting. The Council also recommended allowing the continuation of fisheries that do not exceed a 10–percent scup bycatch. Further discussion on the development of the Council alternatives is provided to the public through the proposed rule to implement 2000 specifications for the summer flounder, scup, and black sea bass fisheries, published elsewhere in this issue of the **Federal Register**.

Given the fact that similar measures for scup are in the proposed 2000 specifications, NMFS is denying this petition for rulemaking. Implementing these controversial measures through emergency or other interim Secretarial action would not afford an opportunity for public comment prior to implementation. NMFS prefers that they undergo full public review and comment, within the context of the annual specifications process for scup.

In the proposed specifications, NMFS is not proposing the selected restricted mesh areas recommended by the Council because NMFS considers them to be inadequate in size and duration to reduce bycatch and be enforceable. However, NMFS is proposing one of the Council's non-selected alternatives. The areas in the proposed alternative are more extensive in both size and time than the Council's recommended areas and, thus, more enforceable. The areas are not as extensive, however, as those recommended by the Petitioners or the Monitoring Committee. The large areas recommended by the Petitioners and Monitoring Committee included areas of few scup discards and did not include some areas of high scup discards. Additional discussion of the rationale for the proposed restricted mesh areas can be found in the proposed specifications for the scup fishery published elsewhere in this issue of the **Federal Register**.

In addition, NMFS believes the implementation of "adequate enforcement mechanisms," such as a VMS requirement or a bycatch quota monitored by at-sea observers, as requested by the Petitioners, would be better handled through the fishery management plan amendment process. Further, the Petitioners' request that, for 2001, NMFS and the Council oversee the development, testing, and implementation of appropriately modified gear as an effective and equitable means of reducing scup bycatch is already possible under the Experimental Fishery Permit process and therefore does not require

additional rulemaking. (See also response to Comment 2.)

The proposed 2000 specifications for scup, summer flounder, and black sea bass are being published concurrently in the **Federal Register** with this notice of finding on the petition to enable the Petitioners and the public to observe the relationship between these two actions. In addition, the public will now have an opportunity to review the proposed measures and submit comments that will be considered in the establishment of the final specifications.

#### Comments and Responses

Five comment letters, including four from commercial fishing industry groups and one from the Commonwealth of Massachusetts, Division of Marine Fisheries, were received during the comment period for this action, which ended on November 15, 1999. All five letters supported the petition. Several of the letters contained comments or suggestions for management actions that were not within the scope of the petition. Only comments relevant to the proposed petition for rulemaking that were received by NMFS prior to the close of business on November 15, 1999, were considered for this action.

*Comment 1:* While supporting adoption of the regulated areas in concept, several of the commenters supported alternative areas not considered within the petition. In addition, the commenters supported complete, seasonal closures (to all gear types) if the seasonal gear restrictions were found to be not feasible in terms of enforcement and compliance.

*Response:* NMFS notes the support for action to reduce the discards of scup. NMFS also notes that seasonal closures of specific areas to all gear types would be a management alternative beyond the scope of this petition.

*Comment 2:* Four of the commenters supported gear modifications to minimize bycatch as well as impacts on fishermen and industry infrastructure. The commenters also supported the use of sea samplers (observers) to monitor experimental small-mesh fisheries, the *Loligo* squid fishery, and bycatch quotas.

*Response:* NMFS agrees that sea sampling is important, although it notes that funding is currently inadequate to support all of the sea sampling needs identified. NMFS agrees that gear modifications to minimize bycatch, as developed through experimental fisheries, could offer another alternative to area restrictions. The Council is working with industry members who have volunteered to identify

modifications that could reduce catch of scup in small-mesh fisheries for squid. In addition, the Council is considering a proposal that would allow vessels with experimental exempted fishing permits to conduct experiments to assess the efficacy of trawl gear modifications to reduce discards. This proposal would rely on NMFS-certified sea samplers to collect valid data on scup discards in these fisheries.

*Comment 3:* Several commenters supported the idea of bycatch quotas of scup and experimental fisheries, provided they receive rigorous review, as have other experimental fisheries.

*Response:* NMFS believes this is an appropriate approach. At its August 1999 meeting, the Council voted to initiate a framework action to consider quota set-asides for scientific research in the scup and other fisheries. Since NMFS has decided not to implement a bycatch quota by way of interim action through this petition, the Council would need to adopt an appropriate framework as a mechanism to provide a bycatch quota for NMFS approval and implementation.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: January 21, 2000.

**Andrew A. Rosenberg,**  
Deputy Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 000119014–0014–01; I.D. No. 112399C]

RIN 0648–AM48

#### Fishers of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 2000 Specifications

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes specifications for the 2000 summer flounder, scup, and black sea bass fisheries. The implementing regulations for the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) require NMFS to publish specifications for the upcoming