

any other legal protections provided by State law.

**Lists of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

**Regulation Promulgation**

Accordingly, in order to comply with the court orders discussed above, we

amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below.

**PART 17—[AMENDED]**

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

■ 2. Amend § 17.11 by revising the entry in the table at paragraph (h) for “Mouse, Preble’s meadow jumping” to read as follows:

**§ 17.11 Endangered and threatened wildlife.**

\* \* \* \* \*  
(h) \* \* \*

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
* Mouse, Preble’s meadow jumping.	* <i>Zapus hudsonius preblei.</i>	* U.S.A. (CO, WY)	* Entire .....	T	* 636	* 17.95(a)	* 17.40(l)
*	*	*	*		*	*	*

■ 3. In § 17.40, revise paragraphs (l)(2)(vi)(E) and (l)(4) to read as follows:

**§ 17.40 Special rules—mammals.**

\* \* \* \* \*  
(l) \* \* \*  
(2) \* \* \*  
(vi) \* \* \*

(E) Any future revisions to the authorities listed in paragraphs (l)(2)(vi)(A) through (D) of this section that apply to the herbicides proposed for use within the species’ range.

(4) *Where does this rule apply?* The take exemptions provided by this rule are applicable within the entire range of the Preble’s meadow jumping mouse.

Dated: July 27, 2011.

**James J. Slack,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2011–19895 Filed 8–4–11; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 101029427–0609–02]

**RIN 0648–XA555**

**Fisheries of the Northeastern United States; Scup Fishery; Adjustment to the 2011 Winter II Quota**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; inseason adjustment.

**SUMMARY:** NMFS adjusts the 2011 Winter II commercial scup quota. This action complies with Framework Adjustment 3 (Framework 3) to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, which established a process to allow the rollover of unused commercial scup quota from the Winter I period to the Winter II period.

**DATES:** Effective August 5, 2011 through December 31, 2011.

**FOR FURTHER INFORMATION CONTACT:** Carly Knoell, Fishery Management Specialist, (978) 281–9224.

**SUPPLEMENTARY INFORMATION:** NMFS published a final rule in the **Federal Register** on November 3, 2003 (68 FR 62250), implementing 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 (January 1 through April 30) to be added to the quota for the Winter II period (November 1 through December 31), and to allow adjustment of the commercial possession limit for the Winter II period commensurate with the amount of quota rolled over from the Winter I period.

For 2011, the initial Winter II quota is 3,245,500 lb (1,472 mt), and the best available landings information indicates that 3,366,913 lb (1,527 mt) remain of the Winter I quota of 9,184,725 lb (4,166 mt). Consistent with the intent of Framework 3, the full amount of unused

2011 Winter I quota is transferred to Winter II, resulting in a revised 2011 Winter II quota of 6,612,413 lb (2,999 mt). Because the amount transferred is greater than 2,000,000 lb (907 mt), the possession limit per trip will increase to 8,000 lb (3,629 kg) during the Winter II quota period, consistent with the final rule Winter I to Winter II possession limit increase table (table 3) published in the 2011 final scup specifications (75 FR 81498, December 28, 2010).

**Classification**

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on this in-season adjustment because it is impracticable and contrary to the public interest. The landings data upon which this action is based are not available on a real-time basis and were compiled only a short time before the determination was made that this action is warranted. If implementation of this in-season action is delayed to solicit prior public comment, the objective of the fishery management plan to achieve the optimum yield from the fishery could be compromised; deteriorating weather conditions during the later part of the fishery year will reduce fishing effort and could result in the annual quota from being fully harvested. This would conflict with the agency’s legal obligation under the Magnuson-Stevens Fishery Conservation and Management

Act to achieve the optimum yield from a fishery on a continuing basis, resulting in a negative economic impact on vessels permitted to fish in this fishery.

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

Dated: August 2, 2011.

**Margo Schulze-Haugen,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2011-19929 Filed 8-4-11; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 110218149-1182-01]

RIN 0648-BA86

#### Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fishery; Emergency Rule Extension, Revision of 2011 Butterfish Specifications

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

**ACTION:** Temporary final rule; emergency action extension and request for comments.

**SUMMARY:** NMFS extends the emergency revision to the butterfish allowable biological catch (ABC) implemented on March 15, 2011, which is scheduled to expire on September 12, 2011. Specifically, this temporary rule maintains the increase in the butterfish ABC from 1,500 mt to 1,811 mt, and applies the increase to the butterfish mortality cap in the *Loligo (Doryteuthis)* squid fishery, based on the most recent and best available scientific information. The increase is extended for an additional 186 days to maintain the increased butterfish ABC through the end of the 2011 fishing year (*i.e.*, through December 31, 2011), or until superseded by 2012 MSB specifications.

**DATES:** The effective date of the interim rule published March 15, 2011 (76 FR 13887), is extended through March 16, 2012, unless superseded by another action. NMFS will accept comments through September 6, 2011.

**ADDRESSES:** The supplemental EA is available by request from: Patricia Kurkul, Regional Administrator, National Marine Fisheries Service, Northeast Region, 55 Great Republic Drive, Gloucester, MA 01930-2276, or via the Internet at <http://www.nero.noaa.gov>.

You may submit comments, identified by RIN 0648-BA86, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking portal <http://www.regulations.gov>;

- **Fax:** (978) 281-9135, *Attn:* Aja Szumylo;

- **Mail to NMFS,** Northeast Regional Office, 55 Great Republic Dr, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Extension of the Emergency Rule to Revise the Butterfish Specifications."

**Instructions:** All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Aja Szumylo, Fishery Policy Analyst, (978) 281-9195; *fax:* (978) 281-9135.

#### SUPPLEMENTARY INFORMATION:

##### Background

This temporary final rule extends the emergency measures implemented on March 15, 2011 (76 FR 13887), as authorized by section 305(c) of the Magnuson-Stevens Act, to increase the butterfish ABC from 1,500 mt to 1,811 mt. The March 15, 2011, emergency rule included detailed information on purpose and need to revise the butterfish ABC that was initially set in the final 2011 specifications for the MSB Fishery Management Plan (FMP) (76 FR 8306; February 14, 2011). There was one anonymous comment submitted on the emergency rule. NMFS will again accept public comment on both the appropriateness of the emergency action to date, and its extension.

The emergency specifications extended through this final rule maintain the 2011 butterfish ABC at 1,811 mt, with the increase applied to the butterfish mortality cap on the *Loligo* fishery. Other specifications for butterfish, specifically initial optimum yield (IOY), domestic annual harvest (DAH), domestic annual processing (DAP), total allowable level of foreign

fishing (TALFF), and research set-aside (RSA), are unchanged from those set in the final 2011 specifications. Specifications for Atlantic mackerel, *Loligo* squid, and *Illex* squid also remain unchanged.

Amendment 10 to the MSB FMP specified that the butterfish mortality cap is to be set equal to 75 percent of the butterfish ABC, with the remaining 25 percent of the butterfish ABC allocated to account for butterfish catch in other fisheries, but noted that this apportionment may be revised as necessary to accommodate the *Loligo* squid fishery. The additional 311-mt ABC allotment extended through this action is entirely allocated to the mortality cap. Under the 2011 specifications, the butterfish mortality cap was 1,125 mt (75 percent of 1,500 mt); this extension maintains the increase in the 2011 butterfish mortality cap at 1,436 mt that was implemented in the emergency action.

NMFS policy guidelines for the use of emergency rules (62 FR 44421; August 21, 1997) specify the following three criteria that define what an emergency situation is, and justification for final rulemaking: (1) The emergency results from recent, unforeseen events or recently discovered circumstances; (2) the emergency presents serious conservation or management problems in the fishery; and (3) the emergency can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process. NMFS policy guidelines further provide that emergency action is justified for certain situations where emergency action would prevent significant direct economic loss, or to preserve a significant economic opportunity that otherwise might be foregone. As noted in the March 15, 2011, emergency rule, NMFS determined that it was necessary to modify the butterfish specifications, consistent with new scientific advice, in a timely manner in order allow the *Loligo* squid fleet to optimize *Loligo* squid harvest with reduced concern that the fishery would be closed due to the butterfish mortality cap.

#### Comments

**Comment:** One anonymous individual opposed the increase in the butterfish ABC and stated that this level of taking is not sustainable.

**Response:** As discussed in the background section of the March 2011 emergency rule, the increased butterfish