

weight, 412,480 lb (187,098 kg), round weight, for 2015; and 365,838 lb (165,941 kg), gutted weight, 406,080 lb (184,195 kg), round weight, for 2016 and subsequent fishing years.

\* \* \* \* \*

(v) *Red porgy*—(1) *Commercial sector*. (i) If commercial landings for red porgy, as estimated by the SRD, reach or are projected to reach the applicable commercial ACL (commercial quota) specified in § 622.190(a)(6), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year.

(ii) If commercial landings exceed the applicable commercial ACL, and red porgy are overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the fishing year to reduce the ACL for that following year by the amount of the overage in the prior fishing year.

(2) *Recreational sector*. (i) If recreational landings for red porgy, as estimated by the SRD, exceed the applicable recreational ACL specified in paragraph (v)(2)(ii) of this section then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. However, the length of the recreational fishing season will not be reduced during the following fishing year if recreational landings do not exceed the applicable ACL or if the RA determines, using the best scientific information available, that a reduction in the length of the following fishing season is unnecessary.

(ii) The recreational ACL for red porgy is 147,115 lb (66,730 kg), gutted weight, 153,000 lb (69,400 kg), round weight, for 2013; 148,558 lb (67,385 kg), gutted weight, 154,500 lb (70,080 kg), round weight, for 2014; 157,692 lb (71,528 kg), gutted weight, 164,000 lb (74,389 kg),

round weight, for 2015 and subsequent fishing years.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 121009528-2729-02]

RIN 0648-XC749

#### Fisheries of the Northeastern United States; Scup Fishery; Adjustment to the 2013 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 2013 Winter II commercial scup quota. This action complies with Framework Adjustment 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 November 1, 2013, through December 31, 2013.

**FOR FURTHER INFORMATION CONTACT:** Carly Bari, 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 2013, the initial Winter II quota is 3,750,249 lb (1,701 mt), and the best available landings information indicates

that 3,182,749 lb (1,444 mt) remain of the Winter I quota of 10,613,157 lb (4,814 mt). Consistent with the intent of Framework 3, the full amount of unused 2013 Winter I quota is transferred to Winter II, resulting in a revised 2013 Winter II quota of 6,932,998 lb (3,145 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 published in the 2013 final scup specifications Table 7 (77 FR 76942, December 31, 2012).

#### 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), has determined good cause exists 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, consequently, 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: July 31, 2013.

**Kelly Denit,**

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

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