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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 170828822-70999-02]**

**RIN 0648-XG475**

**Fisheries of the Northeastern United States; Scup Fishery; Adjustment to the 2018 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 2018 Winter II commercial scup quota and per-trip Federal landing limit. This action is intended to comply with Framework Adjustment 3 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan that established the rollover of unused commercial scup quota from the Winter I to Winter II period. This document is intended to inform the public of this quota and trip limit change.

**DATES:** Effective October 1, 2018, through December 31, 2018.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Hanson, Fishery Management Specialist, (978) 281-9180; or [Cynthia.Hanson@noaa.gov](mailto:Cynthia.Hanson@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS published a final rule for Framework Adjustment 3 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan in the **Federal Register** on November 3, 2003 (68 FR 62250), implementing a process to roll over

unused Winter I commercial scup quota (January 1 through April 30) to be added to the Winter II period quota (October 1 through December 31)<sup>1</sup>. The framework also allows adjustment of the commercial possession limit for the Winter II period dependent on the amount of quota rolled over from the Winter I period.

For 2018, the initial Winter II quota is 3,822,816 lb (1,734 mt). The best available landings information indicates that 5,943,861 lb (2,696 mt) remain of the 10,820,000-lb (4,908-mt) Winter I quota. Consistent with Framework 3, the full amount of unused 2018 Winter I quota is being transferred to Winter II, resulting in a revised 2018 Winter II quota of 9,766,677 lb (4,430 mt). Because the amount transferred is between 5.5 and 6.0 million lb (2,495 to 2,722 mt), the Federal per trip possession limit will increase from 12,000 lb (5.4 mt) to 28,500 lb (13 mt), as outlined in the final rule that established the possession limit and quota rollover procedures for this year, published on December 22, 2017 (82 FR 60682).

### **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, finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on this in-season adjustment because it would be contrary to the public interest. This action transfers unused quota from Winter I Period to the remaining Winter II Period to make it accessible to the commercial scup fishery. If implementation of this in-season action is delayed to solicit prior public comment,

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<sup>1</sup>Effective May 21, 2018, the Winter II period start date was changed from November 1 to October 1 as a part of Framework Adjustment 12 (83 FR 17314; April 19, 2018).

the objective of the fishery management plan to achieve the optimum yield from the fishery could be compromised. Deteriorating weather conditions during the latter part of the fishing year may reduce fishing effort, and could also prevent 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. Moreover, the rollover process being applied here was the subject of notice and comment rulemaking, and the range of potential trip limit changes were outlined in the final 2018 scup specifications that were published December 22, 2017; which were developed through public notice and comment. Based on these considerations, NMFS further finds, pursuant to 5 U.S.C 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

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

**Dated:** September 18, 2018.

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Margo B. Schulze-Haugen,  
Acting Director,  
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National Marine Fisheries Service.

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