

the commercial trip limit for Atlantic king mackerel from 50 fish to 75 fish from October 2019 through January 2020, in Federal waters from the Flagler/Volusia County, FL, boundary to the Miami-Dade/Monroe County, FL, boundary. One hundred and two vessels that make 28.7 percent of the trips are expected to benefit, with an average increase of dockside revenue of \$203.81 per trip (2017 dollars) for 593 trips, and an increase in total dockside revenue for those trips combined approximately by \$120,859. This rule also changes the February 2020 commercial trip limit from the Flagler/Volusia County, FL, boundary to the Miami-Dade/Monroe County, FL, boundary, which is presently at 75 fish if less than 70 percent of the Season 2 quota is reached and 50 fish after 70 percent of the quota is reached, to 75 fish regardless of the percentage of the quota reached. Because 70 percent of the quota has not been reached since implementation of the current trip limit, the limit in February has essentially been at 75 fish. Consequently, no changes in February landings are expected. The current ACL and accountability measures will continue to constrain commercial harvest and prevent overfishing, and no adverse effects to the king mackerel resource are expected to occur as a result of the increased trip limit.

For these same reasons, the AA also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the date of effectiveness of the action. Also, because this measure increases the current Season 2 trip limit, it relieves a restriction, and therefore it also falls within the 5 U.S.C. 553(d)(1) exception to the 30-day delay in the date of effectiveness requirement. Additionally, if the increased trip limit is not in effect by the start of Season 2, October 1, 2019, then the benefits of this action would be reduced and the full economic opportunities that are anticipated would not be realized. A reduction of expected benefits would also be contrary to the intent of the Council.

This emergency rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is not subject to the requirement to provide prior notice and opportunity for public comment pursuant to 5 U.S.C. 553 or any other law. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

#### List of Subjects in 50 CFR Part 622

Atlantic, Commercial, Fisheries, Fishing, King mackerel, Trip limits.

Dated: September 24, 2019.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

#### **PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC**

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.385, suspend paragraphs (a)(1)(ii)(C) and (D), and (a)(1)(iii)(C) and (D), and add paragraphs (a)(1)(ii)(E), and (a)(1)(iii)(E) to read as follows:

#### **§ 622.385 Commercial trip limits.**

- |       |   |   |   |   |
|-------|---|---|---|---|
| *     | *   | * | * | * |
| (a)   | *   | * | * |   |
| (1)   | *   | * | * |   |
| (ii)  | *   | * | * |   |
| (E)   | From October 1 through the end of February—75 fish. |   |   |   |
| (iii) | *   | * | * |   |
| (E)   | From October 1 through the end of February—75 fish. |   |   |   |
| *     | *   | * | * | * |

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#### **DEPARTMENT OF COMMERCE**

#### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

[Docket No. 170828822–70999–02]

RIN 0648–XX014

#### **Fisheries of the Northeastern United States; Scup Fishery; Adjustment to the 2019 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 2019 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, 2019, through December 31, 2019.

**FOR FURTHER INFORMATION CONTACT:** Laura Hansen, Fishery Management Specialist, (978) 281–9225; or [Laura.Hansen@noaa.gov](mailto:Laura.Hansen@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) (50 CFR 648.122(d)). 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. 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).

For 2019, the initial Winter II quota is 3,822,816 lb (1,734 mt). The best available landings information indicates that 5,267,671 lb (2,389 mt) remain of the 10,820,000 lb (4,908 mt) Winter I quota. Consistent with Framework 3, the full amount of unused 2019 Winter I quota is being transferred to Winter II, resulting in a revised 2019 Winter II quota of 9,090,487 lb (4,123 mt). Because the amount transferred is between 5.0 and 5.5 million lb (2,268 mt and 2,495 mt), the Federal per trip possession limit will increase from 12,000 lb (5.4 mt) to 27,000 lb (12.2 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, 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 19, 2019.

**Jennifer M. Wallace,**

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

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