

discard estimates and information regarding the length composition of scup landings and discards. Overall, most recent scup survey observations indicate strong recruitment and some rebuilding of age structure.

The Council has initiated this framework adjustment, pursuant to 50 CFR 648.127(a), to allow the commercial scup fishery to be more efficient and to better achieve the management objectives of the FMP, specifically regarding attainment of optimum yield from the scup fishery. The Council intends to continue the management programs detailed in the FMP and reduce overfishing and rebuild the scup stock.

The commercial scup fishery is managed under a system that allocates the annual quota to three periods: Winter I, January-April (45.11 percent); Summer, May-October (38.95 percent); and Winter II, November-December (15.94 percent). During the Winter periods, the quota is monitored on a coastwide basis. During the Summer period, the quota is also monitored on a coastwide basis, but the Commission uses a state-by-state allocation system to help manage the Federal quota. The Federal commercial scup fishery is closed coastwide when the allocation for a period is reached. In addition, any overages during a quota period are subtracted from that period's allocation for the following year. Any quota overages by a state during the Summer period (whether or not the total Summer period quota is exceeded) are subtracted by the Commission from the state's Summer period share the following year. The current regulations do not allow for the transfer of quota between periods within a fishing year. The final rule to implement the 2003 annual quota specifications (68 FR 60, January 2, 2003) established possession limits of 15,000 lb (6,804 kg) per trip during Winter I and 1,500 lb (680 kg) during Winter II, and specified that the Winter I possession limit be reduced to 1,000 lb (454 kg) per trip when 80 percent of the commercial quota allocated to that period is projected to be harvested.

Quota Rollover From Winter I to Winter II

Framework 3 proposes 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 to be added to the quota for the Winter II period. During the development of this framework adjustment, the Council considered and analyzed three alternatives for unused Winter I quota: Taking no action, which would continue the current regulations

without the ability to transfer unused quota between periods (Alternative 1); the proposed option (Alternative 2); and combining the Winter I and Winter II quotas into a single quota spanning the two periods (Alternative 3). A fourth option, to roll over unused quota from both the Winter I and Summer periods into Winter II, was considered but rejected for further analysis due to the impracticability of monitoring the Summer period quota through the end of the Summer period, calculating the amount of unused combined Winter I and Summer period quota, if any, and effecting the quota rollover prior to the beginning of the Winter II period. The proposed option was selected by the Council because, under Alternative 1, regulatory discarding in Winter II would continue to occur, and Alternative 3 introduces the risk that the entire combined winter quota could be taken during Winter I, resulting in no fishery during Winter II. Additionally, it may be difficult to develop possession limits that would accommodate the merged periods under Alternative 3. Alternative 2 is not associated with any risk to the scup stock or stocks of other species, and should provide economic and social benefits while meeting the objectives of National Standard 1.

In addition, commercial possession limits for the Winter II period would be adjusted, based on the amount of quota rolled over from the Winter I period. It is the Council's intention that the quota rollover and any necessary possession limit adjustments would be accomplished via a notification of changes prior to the beginning of the Winter II fishery.

For 2003, the Winter II quota is 1,979,689 lb (897,981 kg), and preliminary Winter I landings information indicates that 2,203,751 lb (999,605 kg) remain of the Winter I quota. Framework 3 proposes that the entire amount of unused 2003 Winter I quota be transferred to Winter II; assuming the transfer of 2,203,751 lb (999,605 kg), the total Winter II quota would be 4,183,440 lb (1,897,576 kg). The amount to be transferred will be updated in the final rule based on the latest landings information for the 2003 Winter I period. In addition to the quota transfer, Framework 3 proposes to increase the 2003 Winter II possession limit to 4,000 lb (1,814 kg) per trip. For 2004 and future years, the Council will recommend Winter II possession limits, adjusted as appropriate based on the amount rolled over from Winter I to Winter II, as part of the annual commercial quota specification process.

Quota Counting Procedures

The distribution of scup is such that they are occasionally available in nearshore (state) waters prior to the beginning of the Summer period (May 1). The Commission has informed the Council and NMFS that an addendum to the Interstate FMP will be prepared, in the event of a Federal Winter I closure prior to April 15, to allow scup landed April 15 through April 30 to be counted against the states' Summer period quota allocation. State permit holders would be allowed to land and sell scup to state and federally permitted dealers after April 15 and prior to the Federal opening of the Summer period on May 1, in order to reduce discards. In order to effect the planned change to the Commission allocation system, Framework 3 proposes a mechanism, for years when the Winter I commercial scup quota is completely harvested and the Winter I fishery is closed prior to April 15, and upon a state's written request, to allow for commercial landings of scup by state-only permitted vessels in said state that occur from April 15 through April 30 to be counted against the Summer period quota allocation.

During the development of this framework adjustment, the Council considered and analyzed two options for the quota counting procedures: A no-action alternative, which would not allow these landings to be counted against the Summer period quota, but would continue to require that they be recorded as an overage to the Winter I period quota; and the proposed option. The Council selected the proposed action because it would not alter the current quota period or allocations, would require only a minimal change to current Federal regulations, would reduce the negative effects associated with harvest demand when scup availability is high but landings are not allowed, and would not place the scup stock or stocks of other species at risk.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Council prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the reasons why this action is being considered, and the objectives of and legal basis for this action are contained at the beginning of this section in the preamble. The preamble to this proposed rule also includes complete descriptions of the proposed, no action, and other alternatives discussed here.