

limits that result from potential rollover of quota from Winter I to Winter II, the percentage of landings attained during the Winter I fishery at which the landing limits will be reduced, a recreational harvest limit, and additional management measures for the commercial fishery. If the Regional Administrator determines that additional recreational measures are necessary to assure that the specified exploitation rate will not be exceeded, he or she will publish a proposed rule in the **Federal Register** to implement additional management measures for the recreational fishery. After considering public comment, the Regional Administrator will publish a final rule in the **Federal Register** to implement annual measures.

(d) \* \* \*

(3) The Regional Administrator will monitor the harvest of commercial quota for each quota period based on dealer reports, state data, and other available information and shall determine the total amount of scup landed during the Winter I period. If, in any year that the Regional Administrator determines that the landings of scup during Winter I are

less than the Winter I quota for that year, he/she shall increase, through publication of a notification in the **Federal Register**, provided such rule complies with the requirements of the Administrative Procedure Act, the Winter II quota for that year by an amount not to exceed the amount of the Winter I underharvest. The Regional Administrator shall also adjust, through publication of a notification in the **Federal Register**, the Winter II landing limits consistent with the amount of the quota increase, based on the landing limits established through the annual specifications-setting process.

(4) All scup landed for sale in any state during a quota period shall be applied against the coastwide commercial quota for that period, regardless of where the scup were harvested, except as provided in paragraph (d)(5) of this section. Any current year landings in excess of the commercial quota in any quota period will be deducted from that quota period's annual quota in the following year as prescribed below:

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(5) If authorized by the Regional Administrator, and in a year in which the Winter I fishery has been closed prior to April 15, scup landed for sale from April 15 through April 30 by vessels issued a state permit only and fishing exclusively within the waters of a state may be counted against the Summer period quota. Requests to the Regional Administrator to count scup landings in a state from April 15 through April 30 against the Summer period quota must be made by letter signed by the principal state official with marine fishery management responsibility and expertise, or his/her designee, and must be received by the Regional Administrator no later than April 15. Within 10 working days following receipt of the letter, the Regional Administrator shall notify the appropriate state official of the disposition of the request.

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