

(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

This final rule implements 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 would introduce the risk that the entire combined winter quota could be taken during Winter I, resulting in no fishery

during Winter II. Additionally, it would 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 will 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 will 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 the best available landings information indicates that 1,873,050 lb (849,601 kg) remain of the Winter I quota. Consistent with the intent of Framework 3, the full amount of unused 2003 Winter I quota is transferred to Winter II, resulting in a revised 2003 Winter II quota of 3,852,739 lb (1,747,573 kg). In addition to the quota transfer, the 2003 Winter II possession limit is increased to 4,000 lb (1,814 kg) per trip to provide an appropriate opportunity for fishing vessels to obtain the increased Winter II quota. 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 states' Summer period (May 1). This final rule implements 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 that state's Summer quota allocation. Because harvest in state waters during the Summer period is under the jurisdiction of the Commission, this is primarily a Commission issue, but this final rule implements a change to the Federal regulations regarding the quota counting procedures to effect the change to the Commission allocation system.

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 action implemented was selected by the Council 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.

Changes from the Proposed Rule

As indicated in the proposed rule, the amount of unused Winter I quota to be transferred to Winter II has been updated based on the latest (and best available) landings information for the 2003 Winter I period. The resulting 2003 Winter II quota is 3,852,739 lb (1,747,573 kg) rather than 4,183,440 lb (1,897,576 kg) as originally proposed. The reason for the decrease is that, in preparation of the final rule, Winter I landings information from dealer weighout reports became available and were used, in combination with the Winter I interactive voice response data (used in preparation of the proposed rule), to best estimate total landings for the Winter I period.

For clarification purposes, in § 648.120(b)(2) and § 648.120(c), the terms "landing limits" and "landings limits" are changed to "possession limits," and in the first sentence of § 648.120(d)(3), the phrase "for each quota period" is changed to "for the Winter I period." The second sentence of § 648.120(d)(3) is corrected to clarify that 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 the Winter II quota for that year by the amount of the Winter I underharvest. The first sentence of § 648.120(d)(5) is corrected to clarify the process by which a state may apply to the Regional Administrator for authorization to count scup landings in state waters against the Summer period quota.

Comments and Responses

One comment was received on the proposed rule, although the comment did not specifically address the proposed scup action.

Comment: The commenter expressed general support for marine protected areas, reduction of commercial quotas in general, elimination of bottom trawling