



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 2021-27773; RTID 0648-XD333]

#### Fisheries of the Northeastern United States; Scup Fishery; Adjustment to the 2023

#### Winter II Quota

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; in-season adjustment.

**SUMMARY:** NMFS adjusts the 2023 Winter II commercial scup quota and per-trip Federal landing limit. This action is necessary to comply with regulations implementing 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 notification is intended to inform the public of this quota and trip limit change.

**DATES:** Effective October 1, 2023, through December 31, 2023.

**FOR FURTHER INFORMATION CONTACT:** Laura Deighan, Fishery Management Specialist, (978) 281-9184; or [Laura.Deighan@noaa.gov](mailto:Laura.Deighan@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 increase the Winter II (October 1 through December 31) commercial scup quota by the amount of the Winter I (January 1 through April 30) under-harvest and to adjust the Winter II possession limits consistent with the amount of the quota increase,

based on the possession limits established through the annual specifications-setting process.

For 2023, the initial Winter II quota is 2,233,194 lb (1,012,960 kg). The best available landings information through June 28, 2023, indicates that 804,630 lb (364,974 kg) remain of the 6,319,911 lb (2,866,663 kg) Winter I quota. Consistent with Framework 3, the full amount of unused 2023 Winter I quota is being transferred to Winter II, resulting in a revised 2023 Winter II quota of 3,037,824 lb (1,377,934 kg). Because the amount transferred is between 0.5 and 1 million lb (226,796 and 453,592 kg), the Federal per-trip possession limit will increase from 12,000 lb (5,443 kg) to 13,500 lb (6,123 kg), as outlined in the final rule that established the possession limit and quota rollover procedures for this year, published on January 3, 2023 (88 FR 11). The new possession limit will be effective October 1 through December 31, 2023. The possession limit will revert back to 12,000 lb (5,443 kg) at the start of the next fishing year, which begins January 1, 2024.

### **Classification**

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.122(d), which was issued pursuant to section 304(b), and is exempted from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be contrary to the public interest. This action transfers unused quota from the Winter I Period to the Winter II Period to make it accessible to the commercial scup fishery and increase fishing opportunities. If the 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. If this action is delayed, it would reduce the amount of time vessels have to realize the benefits of this quota increase, which would result in negative economic impacts on vessels permitted to fish in this fishery.

Moreover, the rollover process being applied here is routine and formulaic and was the subject of notice and comment rulemaking, and the range of potential trip limit changes were outlined in the final 2023 scup specifications that were published on January 3, 2023, which were developed through public notice and comment. The benefit of soliciting additional public comment on this formulaic adjustment would not outweigh the benefits of making this additional quota available to the fishery as quickly as possible. Based on these considerations, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for the reasons stated above.

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

Dated: September 1, 2023.

Jennifer M. Wallace,  
Acting Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.