materials, and information necessary for the contracting officer to definitize the contract, and should retain a copy for his/her records. An EPA FCS 1102 contracting officer will be responsible for definitization of the NTP consistent with the definitization procedures set forth in this subpart. During the process of definitizing the NTP, the EPA FCS 1102 contracting officer will send the contractor the ''Representations, Certifications, and Other Statements of Offerors'' for completion. The contractor will complete this information, and any other required information, and submit it to the EPA FCS 1102 contracting officer prior to definitization of the NTP.

(f) The CCO, who is authorized by EPAAR 1516.603–3 to make the determination to use a letter contract, shall make a class determination and findings authorizing EPA FCS 1102 contracting officers and duly authorized EPA on-scene coordinators with delegations of procurement authority to award NTPs pursuant to the conditions set forth in this subpart.

Dated: December 27, 2000.

Judy S. Davis,

Acting Director, Office of Acquisition Management.

[FR Doc. 01–4978 Filed 2–28–01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 001121328–1041–02; I.D. 111500C]

RIN 0648–AN71

Fisheries of the Northeastern United States; Scup and Black Sea Bass Fisheries; 2001 Specifications; Commercial Quota Harvested for Winter I Scup Period; Commercial Quota Harvested for Black Sea Bass Quarter I Period

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

ACTION: Final rule, final 2001 specifications, and commercial quota adjustment; notification of commercial quota harvest for Winter I scup period; notification of commercial quota harvest for Quarter I black sea bass period.

SUMMARY: NMFS issues final specifications for the 2001 scup and black sea bass fisheries and makes preliminary adjustments to the 2001 commercial quotas for these fisheries. The annual specifications for the scup fishery modify the Gear Restricted Areas (GRAs) that were established in the Mid-Atlantic Bight to reduce scup bycatch in small-mesh fisheries. The trip limit provisions in the scup and black sea bass fisheries are modified to be possession limits, and these limits are further specified to be the maximum amount allowed to be landed within a 24-hour period (calendar day). NMFS also announces that the scup commercial quota available in the Winter I period and the black sea bass commercial quota available in the Quarter 1 period to the coastal states from Maine through North Carolina has been harvested. Federally permitted commercial vessels may not land scup in these states for the remainder of the 2001 Winter I quota period (through April 30, 2001). Federally permitted commercial vessels may not land black sea bass in these states for the remainder of the 2001 Quarter I quota period (through March 31, 2001). Regulations governing the scup and black sea bass fisheries require publication of this notification to advise the coastal states from Maine through North Carolina that these quotas have been harvested and to advise Federal vessel permit holders and Federal dealer permit holders that no commercial quota is available for landing scup in these states, and for landing black sea bass in these states north of 35°15.3′ N. lat. The intent of this action is to comply with implementing regulations for the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP), which require NMFS to publish measures for the upcoming fishing year that will prevent overfishing of these fisheries. The specifications for the 2001 summer flounder fishery will be published in the **Federal Register** at a later date.

DATES: 1. The 2001 final specifications for scup and black sea bass are effective March 1, 2001, through December 31, 2001.

2. Sections 648.14(a)(84), 648.123(a)(1) and 648.123(a)(5) are effective March 1, 2001.

3. The prohibition on landings of scup in the coastal states from Maine through North Carolina by Federal permit holders is effective 0001 hours, March 1, 2001, through 2400 hours, April 30, 2001.

4. The prohibition on landings of black sea bass in the coastal states from Maine through North Carolina north of 35°15.3′ N. lat. by Federal permit holders is effective 0001 hours, March 7, 2001, through 2400 hours, March 31, 2001.

5. Sections 648.14(a)(92), 648.14(a)(122), 648.14(u)(9), 648.120(b)(2), 648.122(a) through (c), 648.140(b)(2), the removal and reservation of 648.122(d), and the removal of 648.14(a)(123) are effective April 2, 2001.

ADDRESSES: Send comments on any ambiguity or unnecessary complexity arising from the language used in this final rule to Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298.

Copies of supporting documents used by the Scup and Black Sea Bass Monitoring Committees, the Regulatory Impact Review (RIR), the Final Regulatory Flexibility Analysis (FRFA) contained within the RIR, and the Environmental Assessment (EA) are available from the Northeast Regional Office at the same address. The EA/RIR/FRFA contains an analysis of the final scup and black sea bass measures and includes a draft analysis of summer flounder measures. The EA/RIR/FRFA is also accessible via the Internet at http://www.nero.nmfs.gov/ro/doc/nr.htm.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, (978)281–9279, fax (978)281–9135, e-mail rick.a.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FMP was developed jointly by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council) in consultation with the New England and South Atlantic Fishery Management Councils. The management units specified in the FMP include scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35°13.3′ N. lat. (the latitude of Cape Hatteras Light, NC) northward to the U.S./Canadian border. Implementing regulations for these fisheries are found at 50 CFR part 648, subparts A, H (scup), and I (black sea bass).

Pursuant to §§ 648.120 (scup) and 648.140 (black sea bass), the Administrator, Northeast Region, NMFS, (Regional Administrator) implements measures for the fishing year to assure that the target fishing mortality rate (F) or exploitation rate for each fishery, as specified in the FMP, is not exceeded. The target F or exploitation rate and management measures (e.g., mesh requirements, minimum fish sizes, seasons, and area

restrictions) are summarized here, by species. Detailed background information regarding the status of these stocks and the development of the proposed specifications was provided in the proposed specifications for the 2001 summer flounder, scup, and black sea bass fisheries (65 FR 71042, November 28, 2000) and is not repeated here. In addition to establishing the annual measures, this action modifies the trip limit provisions in the scup and black sea bass fisheries so that they are possession limits, to enhance at-sea enforcement. For black sea bass and scup, this action also specifies that the possession limit is the maximum amount that can be landed in a calendar day. NMFS will publish a proposed and final rule for the 2001 recreational management measures for these fisheries in the **Federal Register** at a later date.

Scup

The FMP established a target exploitation rate for scup in 2001 of 33 percent. The total allowable catch (TAC) associated with that rate is allocated 78 percent to the commercial sector and 22 percent to the recreational sector by the FMP. Scup discard estimates are deducted from both TACs to establish total allowable landings (TAL) for both sectors (TAC - discards = TAL). The commercial TAL is then allocated with differing percentages to three quota periods: Winter I (January–April)–45.11 percent; Summer (May–October)–30.95 percent; and Winter II (Nov–December)–15.94 percent.

In 2000, NMFS implemented GRAs, a management tool recommended by the Council, to reduce discards of scup in small-mesh fisheries. The GRAs are seasonally closed to specified small-mesh fisheries using trawl gear with codend mesh sizes less than 4.5 inches (11 cm). GRAs initially went into effect on November 1, 2000, with an exemption for the Atlantic herring small-mesh fishery (65 FR 33486, May 24, 2000). They were later modified in size, effective December 23, 2000, (65 FR 81761, December 27, 2000), and a temporary exemption for the *Loligo* squid fishery and a permanent exemption for the Atlantic mackerel small-mesh fishery were implemented.

In the proposed rule for this action, NMFS noted the continued importance of reducing scup discards in small-mesh fisheries. NMFS also noted that it recognized that GRAs are not the only way to address scup discard mortality. Therefore, NMFS sought comments on four options to meet the regulatory requirement at 50 CFR 648.120 that the Regional Administrator implement measures to ensure that the target exploitation rate would not be exceeded. The four options varied in terms of the TAC level, the discard deduction made to calculate TALs, the size and location of the GRAs, and the fisheries to be exempted from the GRAs. In general, if GRAs were used to reduce scup bycatch, the discard deduction made in establishing the TAL would be lower than it would have been without GRAs, and the resultant quotas would be higher. The options are outlined here.

Option I: (1) The Council's proposed quota for scup (a TAC of 8.37 million lb (3.80 million kg), a discard deduction of 2.15 million lb (0.97 million kg), and a TAL of 6.22 million lb (2.82 million kg)); (2) the GRAs currently in effect (as recommended by the Council); and (3) exemptions for Atlantic herring, Atlantic mackerel and *Loligo* squid small-mesh fisheries.

Under this option, the commercial TAC would be 6.53 million lb (2.96 million kg) minus discards of 2.08 million lb (0.94 million kg), resulting in a commercial quota of 4.45 million lb (2.02 million kg). The recreational TAC would be 1.84 million lb (0.83 million kg) minus discards of 0.07 million lb (0.03 million kg), resulting in a recreational harvest limit of 1.77 million lb (0.80 million kg).

Option II: (1) The Scup Monitoring Committee's quota recommendation for 2001 (a TAC of 7.85 million lb (3.56 million kg), a discard deduction of 2.85 million lb (1.29 million kg), and a TAL of 5.0 million lb (2.27 million kg)); (2) the GRAs currently in effect (as recommended by the Council); and (3) exemptions for the Atlantic herring and Atlantic mackerel small-mesh fisheries.

Under this option, the commercial TAC would be 6.12 million lb (2.78 million kg) minus discards of 2.76 million lb (1.25 million kg), resulting in a commercial quota of 3.36 million lb (1.52 million kg). The recreational TAC would be 1.73 million lb (0.78 million kg) minus discards of 0.09 million lb (0.04 million kg), resulting in a recreational harvest limit of 1.64 million lb (0.74 million kg).

Option III: (1) The temporary suspension of GRA restrictions for 2001; and (2) a TAL established at a level that is consistent with the stock assessment's conclusion that commercial discards are approximately equal to commercial landings (a TAC of 7.85 million lb (3.56 million kg), a discard deduction of 3.15 million lb (1.43 million kg), and a TAL of 4.70 million lb (2.13 million kg)).

Under this option, the commercial TAC would be 6.12 million lb (2.78 million kg) minus discards of 3.06 million lb (1.39 million kg), resulting in a commercial quota of 3.06 million lb (1.39 million kg). The recreational TAC would be 1.73 million lb (0.78 million kg) minus discards of 0.09 million lb (0.04 million kg), resulting in a recreational harvest limit of 1.64 million lb (0.74 million kg).

Option IV: (1) Modified GRAs that are shorter in duration and that exclude the Hudson Canyon area, but incorporate other areas of high scup concentration and small-mesh fishing activities during the winter months; (2) the Monitoring Committee's quota recommendation for 2001 (a TAC of 7.85 million lb (3.56 million kg), a discard deduction of 2.85 million lb (1.29 million kg), and a TAL of 5.0 million lb (2.27 million kg)); and (3) exemptions for the Atlantic herring and Atlantic mackerel small-mesh fisheries.

Under this option, the commercial TAC would be 6.12 million lb (2.78 million kg) minus discards of 2.76 million lb (1.25 million kg), resulting in a commercial quota of 3.36 million lb (1.52 million kg). The recreational TAC would be 1.73 million lb (0.78 million kg) minus discards of 0.09 million lb (0.04 million kg), resulting in a recreational harvest limit of 1.64 million lb (0.74 million kg).

Final 2001 Scup Specifications

Based on the comments received on the proposed specifications and the requirements of the FMP, NMFS is implementing for 2001 the Council's recommended TAC of 8.37 million lb (3.80 million kg) and associated TAL of 6.22 million lb (2.82 million kg), as described in Option I. This final rule also establishes the modified GRAs and exemptions described in Option IV (exempts Atlantic mackerel and Atlantic herring fisheries), which will remain in effect until modified by a subsequent action.

The TAC implemented by this final rule results in a consistent scup quota throughout the management unit, because it is the same as that adopted by the Commission for 2001. This prevents the confusion and inequities that would occur if different TALs were applicable to state-permitted and federally permitted vessels. In that situation, federally permitted vessels would be precluded from fishing for scup during a Federal closure, even though state-permitted vessels could continue to fish in state waters. Furthermore, because the Commission adopted a 6.22 million lb (282-million kg) scup quota, landings of 6.22 million lb (2.82 million kg) would likely occur in 2001 even if a lower Federal quota of 5.0 million lb (2.27 million kg) were

adopted, because fishing by state-permitted vessels would continue in state waters even after Federal waters were closed to scup fishing.

In the proposed rule for this action, NMFS indicated concern regarding the scup quota recommended by the Council and the underlying assumption that scup biomass would be greater in 2001 than in 2000. However, during the comment period, the New York Department of Environmental Conservation presented new information indicating very strong recent scup year classes, particularly the 1999 year class, providing evidence that scup are rebuilding and that the biomass will increase in 2001. State fisheries managers from Rhode Island and Connecticut also indicated during the December 2000, Council meeting that their states' inshore surveys indicated strong recent scup year classes. These states have provided preliminary information to NMFS showing a strong 1999 year class and also potentially strong 1998 and 2000 year classes. NMFS recognizes that these data are preliminary. Nevertheless, the information indicates at least one very strong scup year class. If protected from excessive discard mortality, the 1999 year class, and possibly others, should contribute significantly to rebuilding the resource.

Because of these potentially strong recent year classes, the harvest level recommended by the Council and adopted in this final rule can be reasonably expected to attain the target exploitation rate. However, these strong year classes also mean that GRAs remain necessary to protect juvenile scup from discard mortality and to allow rebuilding to take place. The GRAs described in Option IV and implemented through this final rule will extend farther south than the existing GRAs to include areas of high winter scup abundance and coincidental *Loligo* squid fishing effort, as identified by the Northeast Fisheries Science Center (NEFSC) winter bottom trawl survey and in vessel logbook reports. Although quantitative estimates are not available, these GRAs are expected to reduce scup discards in the winter. These GRAs will also allow small-mesh fishing in the Hudson Canyon area, which has been identified by industry as a priority area for winter fishing activity in several small-mesh fisheries. NMFS believes that these GRAs will reduce scup discards with simultaneously fewer adverse impacts on small-mesh fisheries than the existing GRAs.

The commercial allocation is shown in Table 1. These allocations are subject to a downward adjustment for any overages that occurred in a period's scup harvest in 2000, as is required by § 648.120(d)(6). Scup preliminary landings data are listed in Table 2. Preliminary data indicate that the Winter I and Summer period allocations were exceeded in 2000. The resulting adjusted 2001 commercial quota for each period is given in Table 3.

TABLE 1. PERCENT ALLOCATIONS OF 2001 COMMERCIAL SCUP QUOTA

Period	Percent	TAC[1]	Discards[2]	Quota allocation		Possession	
				lb	kg[3]	lb	kg[3]
Winter I	45.11	2,945,502	940,543	2,004,959	909,434	10,000[4]	4,536
	.....	(1,336,057)	(426,623)	.....	.....	.....	.....
Summer	38.95	2,543,280	812,108	1,731,172	785,246	N/A	N/A
	.....	(1,153,612)	(368,366)	.....	.....	.....	.....
Winter II	15.94	1,040,818	332,349	708,469	321,356	2,000	907
	.....	(472,107)	(150,751)	.....	.....	.....	.....
Total	100.00	6,529,600	2,085,000	4,444,600	2,016,036	.....	.....
	.....	(2,961,776)	(945,740)	.....	.....	.....	.....

[1] Total allowable catch in pounds (kilograms in parentheses).
[2] Discard estimates in pounds (kilograms in parentheses).
[3] Kilograms are as converted from pounds and may not add to the converted total due to rounding.
[4] Possession limit will drop to 1,000 lb (453.6 kg) per trip when 75 percent of Winter I quota is reached.

TABLE 2. SCUP PRELIMINARY 2000 LANDINGS BY PERIOD

Period	2000 Quota[1]		2000 Landings		2000 Overage	
	lb	kg[2]	lb	kg[2]	lb	kg[2]
Winter I	1,037,253	470,490	1,366,591	619,875	329,338	149,385
Summer	637,878	289,337	1,221,189	553,922	583,311	264,585
Winter II	70,356	31,913	34,939	15,848	0	0
Total	1,745,487	791,740	2,622,719	1,189,645	912,649	413,971

[1] Reflects quotas as published on August 18, 2000 (65 FR 50463).
[2] Kilograms are as converted from pounds and may not add to the converted total due to rounding.

TABLE 3. SCUP FINAL 2001 ADJUSTED QUOTAS

Period	2000 Initial Quota		2000 Adjusted quota[1]	
	lb	kg[2]	lb	kg[2]
Winter I	2,004,959	909,434	1,675,621	760,049
Summer	1,731,172	785,246	1,147,861	520,661
Winter II	708,469	321,356	708,469	321,356
Total	4,444,600	2,016,037	3,531,951	1,602,066

[1] Possession limits specified in Table 1.
[2] Kilograms are as converted from pounds and may not add to the converted total due to rounding.

To enhance at-sea enforcement, this action changes the current scup trip limits to possession limits, with the additional provision that these quantities be the maximum allowed to be landed within a calendar day. This action implements a Winter I (January–April) possession limit of 10,000 lb (4,536 kg) with a reduction to 1,000 lb (454 kg) for the remainder of the period when 75 percent of the quota allocation is projected to have been harvested. The Winter II period (November–December) possession limit is decreased from 4,000 lb (1,814 kg) to 2,000 lb (907 kg).

This action also increases the level of catch (threshold) that may be retained on board a vessel that is using mesh smaller than 4.5 inches (11 cm) from 200 lb (91 kg) to 500 lb (227 kg) for the period November 1–April 30. The threshold remains at 100 lb (45 kg) for the period May 1–October 31. In order for a vessel to possess scup in excess of the threshold, mesh smaller than 4.5 inches (11 cm) must be stowed and unavailable for use. In the proposed rule, NMFS noted concern that increasing the threshold for the November–April period could potentially increase bycatch and subsequent discard of undersized scup. However, it was recognized that, if scup, which otherwise would have been discarded, were instead converted to landings due to the change in the mesh threshold without incurring additional discards when the 500-lb (227 kg) threshold was reached, as the Council and industry believed would occur, the change in threshold limit would be acceptable. After reviewing public comment, NMFS concluded that this belief cannot be tested definitively. Therefore, NMFS has decided to defer to the Council's judgement on this matter.

Scup Closure

Section 648.121 requires the Regional Administrator to monitor the commercial scup quota for each quota period and, based upon dealer reports, state data, and other available information, to determine when the commercial quota for a period has been harvested. NMFS is required to publish a notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the scup commercial quota has been harvested and no commercial quota is available for landing scup for the remainder of the Winter I period. The Regional Administrator has determined, based upon dealer reports and other available information, that the scup commercial quota of 1,666,570 lb for the 2001 Winter I period has been harvested.

Section 648.4(b) provides that Federal scup moratorium permit holders agree as a condition of the permit not to land scup in any state after NMFS has published a notification in the **Federal Register** stating that the commercial quota for the period has been harvested and that no commercial quota for scup is available. Therefore, effective 0001 hours, March 1, 2001, further landings of scup by vessels holding Federal scup moratorium permits are prohibited through April 30, 2001. The Summer period for commercial scup harvest will open on May 1, 2001. Effective 0001 hours, March 1, 2001, federally permitted dealers are also advised that they may not purchase scup from federally permitted vessels that land in coastal states from Maine through North Carolina for the remainder of the Winter I period (through April 30, 2001).

Black Sea Bass

The FMP specifies a target exploitation rate of 37 percent for 2001. This target is to be attained through specification of a TAL level that is allocated to the commercial (49 percent) and recreational (51 percent) fisheries. The commercial quota is specified on a coastwide basis, by quarter.

To achieve the target exploitation rate for 2001, this action implements a black sea bass TAL equal to the 2000 level and reduces the possession limits in Quarters 2, 3, and 4. The reduction in the possession limits is intended to allow the fishery to remain open for the entire quarter. This action also changes the current trip limits for black sea bass to possession limits to enhance at-sea enforcement, with the provision that these quantities are the maximum allowed to be landed within a calendar day. The commercial quota and corresponding possession limits are shown in Table 4.

Preliminary data indicate overages of the 2000 quota occurred in Quarters 2, 3, and 4 (Table 5), which requires a corresponding deduction from the 2001 allocations for those quarters. The resulting adjusted 2001 commercial quota for each quarter is given in Table 6. These allocations are preliminary and would be subject to a downward adjustment for any additional overages in a period's harvest in 2000, as provided in the FMP.

TABLE 4. 2001 BLACK SEA BASS QUARTERLY COASTWIDE COMMERCIAL QUOTAS AND QUARTERLY POSSESSION LIMITS

Quarter	Percent	lb	kg[1]	Possession limits	
				lb	kg[1]
1 (Jan–Mar)	38.64	1,168,760	530,141	9000	4,082
2 (Apr–Jun)	29.26	885,040	401,447	1500	680
3 (Jul–Sep)	12.33	372,951	169,168	1000	454
4 (Oct–Dec)	19.77	597,991	271,244	2000	907
Total	100.00	3,024,742	1,372,000	.....	.....

[1] Kilograms are as converted from pounds and may not add to the converted total due to rounding.

TABLE 5. BLACK SEA BASS PRELIMINARY 2000 LANDINGS BY QUARTER

Period	2000 Quota		2000 Landings		2000 Overage	
	lb	kg[1]	lb	kg[1]	lb	kg[1]
1	1,168,760	530,141	848,018	384,654	0	0
2	734,088	332,982	939,609	426,199	205,521	93,223
3	238,795	108,317	334,871	151,895	96,076	43,579
4	490,038	222,281	571,090	259,042	81,052	36,765
Total	2,631,681	1,193,721	2,693,588	1,221,791	382,649	173,567

[1] Kilograms are as converted from pounds and may not add to the converted total due to rounding.

TABLE 6. BLACK SEA BASS FINAL 2001 ADJUSTED QUOTAS

Period	2001 Initial quota		2001 Adjusted quota	
	lb	kg[1]	lb	kg[1]
1	1,168,760	530,141	1,168,760	530,141
2	885,040	401,447	679,519	308,225
3	372,951	169,168	276,875	125,588
4	597,991	271,244	516,939	234,480
Total	3,024,742	1,372,000	2,642,093	1,198,433

[1] Trip limits specified in Table 4.
[2] Kilograms are as converted from pounds and may not add to the converted total due to rounding.

Black Sea Bass Closure

Section 648.141 requires the Regional Administrator to monitor the commercial black sea bass quota for each quota period and, on the basis of dealer reports, state data, and other available information, to determine when the commercial quota has been harvested. NMFS is required to publish a notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the black sea bass commercial quota has been harvested and no commercial quota is available for landing black sea bass for the remainder of the quarter 1 period, north of 35°15.3′ N. lat. The Regional Administrator has determined, based upon dealer reports and other available information, that the black sea bass commercial quota of 1,168,760 lb (530,141 kg) for the 2001 quarter 1 period has been harvested.

The regulations at § 648.4(b) provide that Federal black sea bass moratorium permit holders agree as a condition of the permit not to land black sea bass in any state after NMFS has published a notification in the **Federal Register** stating that the commercial quota for the period has been harvested and that no commercial quota for the black sea bass is available. The Regional Administrator has determined that the quarter 1 period for black sea bass no longer has commercial quota available. Therefore, effective 0001 hrs local time, March 7, 2001, further landings of black sea bass in coastal states from Maine through North Carolina, north of 35°15.3′ N. lat., by vessels holding commercial Federal fisheries permits are prohibited through March 31, 2001. The 2001 quarter 2 period for commercial black sea bass harvest will open on April 1, 2001. Effective March 7, 2001, federally permitted dealers are also advised that they may not purchase black sea bass from federally permitted black sea bass moratorium permit holders who land in coastal states from Maine through North Carolina, north of 35°15.3′ N. lat., for the remainder of the quarter 1 period (through March 31, 2001).

The regulations at § 648.4(b) also provide that, if the commercial black sea bass quota for a period is harvested and the coast is closed to the possession of black sea bass north of 35°15.3′ N. lat., any vessel owners who hold valid commercial permits for both the black sea bass and the NMFS Southeast Region Snapper-Grouper fisheries may surrender their black sea bass moratorium permit by certified mail addressed to the Regional Administrator (see **ADDRESSES**) and fish pursuant to their Snapper-Grouper permit, as long as fishing is conducted exclusively in waters, and landings are made, south of 35°15.3′ N. lat. A moratorium permit for the black sea bass fishery that is voluntarily relinquished or surrendered will be reissued upon the receipt of the vessel owner's written request after a minimum period of 6 months from the date of cancellation.

Comments and Responses

A total of 30 comments on the proposed rule were received in reference to the scup and black sea bass specifications, primarily from fishing industry participants and organizations representing the commercial fishing industry. Other commenters included the Massachusetts Division of Marine Fisheries, the New York State Department of Environmental Conservation (NYDEC), a university professor, and several environmental organizations, which submitted one co-signed comment. All comments received prior to the close of the comment period that directly related to the measures in the proposed rule were considered in developing the measures contained in this final rule. Several commenters made points that went beyond the scope of the proposed action; those points are not responded to here.

Comment 1: Twenty commenters questioned the scientific information underlying the proposed 2001 scup specifications. In addition, eight commenters stated that recently available state survey data indicate that scup abundance is higher than was indicated by the data used in developing the scup specifications, and that the 2001 allowed harvest level should be the level recommended by the Council in scup Option I. Conversely, one commenter felt that adopting a higher scup TAL would violate the overfishing, rebuilding, and bycatch reduction requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), its implementing regulations, and the FMP.

Response: As noted in the preamble, the most recent stock assessment was conducted in June 2000 (SARC 31) and incorporated the best scientific information available at that time. Several state fishery managers presented more recent information at the December 2000, meeting of the Council and the Commission. NYDEC data showed very strong recent scup year classes, particularly in 1999, and indicated that scup are rebuilding and that biomass will increase in 2001. State representatives from Rhode Island and Connecticut also noted at the meeting that their state surveys preliminarily show similar increases in recent year classes. These state survey data indicate that the biomass estimated for 2001 will likely be higher than the biomass estimated for 2000. This recent information indicating a scup biomass increase provided the basis for NMFS' decision to set the 2001 scup TAL at the level recommended by the Council and Board (reflected in scup Option I).

SARC 31 also noted evidence of strong year classes in 1997 and 1999, and an increase in spawning stock abundance since 1998. SARC 31 concluded that fishing mortality should be reduced substantially and immediately, and that a reduction in fishing mortality from discards would have the most impact on rebuilding the stock. Therefore, in recognizing a likely increase in scup abundance, NMFS also recognizes the imperative to maintain GRAs to reduce discard mortality of

juvenile scup. GRAs are necessary to protect the strong recent year classes, which have not yet reached harvestable size. These year classes provide opportunities for future rebuilding of the scup stock. NMFS believes the GRAs contained in Option IV and implemented through this final rule will provide the requisite protection.

Comment 2: One commenter felt that NMFS' failure to take action to lower the Winter I scup trip possession limit would violate the overfishing, rebuilding, and bycatch reduction requirements of the Magnuson-Stevens Act, its implementing regulations, and the FMP.

Response: NMFS notes that, although Council staff recommended lowering the Winter I scup possession limit, the Scup Monitoring Committee did not support that recommendation. The allowable harvest limit is the primary measure to control mortality in the scup fishery, because the fishery is closed upon attainment of the harvest limit. Possession limits primarily serve to distribute the quota over the quota period. This final rule lowers the level at which the landing limit is reduced to 1,000 lb from 85 percent of the Winter I allocation to 75 percent of the Winter I allocation, based on the recommendations of the Council and the Scup Monitoring Committee. Lowering the trigger to 75 percent of the Winter I quota will reduce the trip limit earlier in the Winter I period, and better ensure that the Winter I period quota is not exceeded.

Comment 3: Nineteen commenters stated that they disagreed with the scup discard statistics. Four of these commenters referred to an analysis of NMFS sea sampling (observer) data prepared by Dr. Eric Powell, Rutgers University, that concluded that the discard problem is primarily associated with fishing trips directing on scup, not trips directing on *Loligo* squid.

Response: NMFS has consistently stated that it recognizes that it is difficult to make a precise determination of scup discards because of the limited information available. Sea sampling data for small-mesh fishery trips, which are the best available discard information, are not available for all areas and time periods of concern. However, SARC 31 concluded that commercial discards may have equaled or exceeded commercial landings during 1989-1997. SARC 31 also noted that the limited sea sampling information suggests that discards are quite variable.

Based on the available sea sampling data, the overall percent of discards in the *Loligo* squid fishery is relatively low, when calculated by comparing the weight of scup caught to the total weight of the catch. However, the percentage is affected by the fact that the total volume of fish caught by vessels fishing for *Loligo* squid is very high. A review of the sea sampling data shows that the total poundage of scup discarded in the *Loligo* fishery can be substantial. Therefore, NMFS cannot currently support an exemption from the GRAs for the *Loligo* fishery.

NMFS notes that the analysis conducted by Dr. Powell has not yet been peer reviewed and that such a review is necessary in order to evaluate properly the results of the analysis.

Comment 4: One commenter objected to exempting both the *Loligo* squid and the Atlantic mackerel small-mesh fisheries from the GRAs. This commenter stated that the *Loligo* fishery is considered the most significant source of scup discards. Conversely, several commenters showed support for exempting the *Loligo* squid fishery from GRA measures.

Response: NMFS recognizes that overall scup discards as a percent of total *Loligo* landings are comparatively low. As stated in the response to comment 3, the main reason for this is that the overall volume of fish caught in the *Loligo* fishery is large. Available NMFS observer data show that occasional large scup discard events (as high as 28 percent) in the directed *Loligo* fishery do occur. These occasional large discard events are of concern. Therefore, NMFS has not exempted the *Loligo* fishery from the GRA requirements. *Loligo* was exempted from the modified Northern GRA implemented from December 23, 2000, through December 31, 2000, because the *Loligo* quota had been harvested. Thus, no directed *Loligo* fishery was occurring during this time period, having minimal impacts on the scup resource.

The highest percentage of scup bycatch for any directed mackerel trip, based on the limited sea-sampling data, was 6 percent. The Scup Monitoring Committee recommended that the Atlantic mackerel small-mesh fishery be exempt from the GRA requirements. Based of the available observer information and the Scup Monitoring Committee recommendation, NMFS believes that exempting the directed small-mesh mackerel fishery will not jeopardize the attainment of scup mortality reduction objectives.

Comment 5: Two commenters supported scup Option I, which contains the GRAs implemented on December 23, 2000, with exemptions for the *Loligo* squid, Atlantic mackerel, and Atlantic herring small-mesh fisheries, and the Council's recommended scup TAL of 6.22 million lb (2.82-million kg).

Response: Scup Option I would have retained GRAs, but would have exempted the *Loligo* squid fishery from the GRA restrictions. As explained in the responses to Comments 4 and 5, NMFS cannot currently support a *Loligo* squid small-mesh exemption because of concerns that the *Loligo* fishery is a significant source of scup discard mortality, despite the fact that the overall percentage of scup discarded relative to the *Loligo* catch may be low.

Comment 6: Twenty-six commenters supported the temporary suspension of GRAs as proposed in scup Option III, with 11 of these commenters favoring an increase of the scup TAL to the level proposed in Option I. Many commenters stated that GRAs are not necessary because significant reductions in scup mortality are being achieved through other measures, including periodic fishery closures due to quota attainment, the 4.5-inch (11.4-cm) scup minimum mesh size requirement, the minimum fish size requirement, and gear improvements adopted by industry that reduce scup discards.

Response: The objective of the scup management measures is to ensure that scup mortality, both from discards in small-mesh fisheries and from the directed scup fishery, is controlled. Option III included a GRA suspension only in conjunction with a TAL established at a level consistent with the SARC 31 conclusion that commercial discards are approximately equal to commercial landings. As such, Option III would have reduced the allowable harvest level to compensate for suspension of the GRAs. Combining the GRA suspension with a higher harvest level would have defeated the objective of Option III.

Comment 7: Two commenters supported scup Option III but stated that, if NMFS felt GRAs were necessary, they would support scup Option IV, which allows small-mesh fisheries in the Hudson Canyon area.

Response: As discussed earlier, NMFS believes that GRAs are necessary, especially in consideration of the recent strong scup year classes that need protection to allow stock rebuilding. Therefore, NMFS is implementing the GRAs contained in scup Option IV. These GRAs will provide necessary protection to juvenile scup, yet allow small-mesh fishing activity in the Hudson Canyon, which has been identified by industry as a priority area for small-mesh fisheries.

Comment 8: Some commenters expressed opinions and concerns about the areas encompassed by the GRAs

proposed in Option IV. Three commenters disagreed with the location of the proposed GRAs, and stated that these areas do not coincide with areas of scup abundance. Conversely, another commenter supported the proposal in scup Option IV to extend the boundary of the Southern GRA farther south, but opposed opening the Hudson Canyon area to small-mesh fishing. This commenter stated that the proposed rule provided no analysis to support opening the Hudson Canyon, and cited information in the EA indicating that the northern portion of the Hudson Canyon area is a source of significant scup discards.

Response: On the basis of 1992-1998 NEFSC Winter Bottom Trawl Surveys, NMFS believes that extending the GRAs farther south and widening the GRAs to include more of the area surrounding the 100-fathom contour will provide protection for abundant winter scup congregations and compensate, in terms of scup discards, for exempting the Hudson Canyon area. Initially, the southern area was not included in the GRAs because there were no sea-sampling trips conducted in the area. However, a comparison of Winter Bottom Trawl Survey information with vessel trip report data for the *Loligo* fishery, prepared in conjunction with the 2001 specifications, indicates this is a key area of scup abundance that coincides with numerous *Loligo* fishing trips. Although the anticipated reduction in discards is not quantifiable, the EA provides charts documenting that winter scup abundance coincides with significant *Loligo* squid fishing activity in the area.

Comment 9: One commenter stated that NMFS Winter Bottom Trawl Surveys from 1992 to 1998 show lower scup abundance in the GRAs proposed in Options I, II and IV than in areas outside the GRAs.

Response: GRAs were initially developed in the 2000 scup specifications based on sea-sampling data and industry input. The northern GRA in scup Option IV, and the three GRAs in Options I and II, were developed in this manner. There were no sea sampling data available for trips conducted south of 38°N. lat. Therefore, NMFS considered other available information pertaining to the fishery south of that area. NMFS compared the distribution of scup, based on data from the 1992-98 Winter Bottom Trawl Survey, with fishing trips that landed *Loligo* squid, based on data reported by the industry in Fishing Vessel Trip Reports. The southern GRA included in scup Option IV includes areas where scup are abundant at the same time that small-mesh fishing occurs for *Loligo* squid. Although the two areas in Option IV were developed using different databases, NMFS believes that both GRAs are appropriately based on the best available scientific information.

Comment 10: Two commenters stated that the analysis of the economic impact of GRAs is unrealistic. One commenter questioned the conclusion of the analysis, and instead restated the conclusion to be, ''that under 5 percent of 1158 boats will suffer a loss of more than 5 percent of revenue associated with small-mesh fisheries in this time period.'' Both commenters included information comparing selected vessel revenues from November 1999 to November 2000 to demonstrate revenue declines. Conversely, one commenter stated that NMFS failed to consider any economic benefits to scup fishermen resulting from reducing discards in small-mesh fisheries.

Response: The NMFS integrated analysis in the EA/RIR/IRFA was conducted to assess the overall potential impacts of revising the GRAs in conjunction with the 2001 specifications being established for summer flounder, scup and black sea bass. The overall projected revenue impacts of the proposed 2001 GRA options and specifications were compared with the impacts of the status quo measures (2000 specifications and GRAs). The commenters, on the other hand, presented revenue information showing decreases in revenue for selected vessels in November 2000 compared to November 1999, a year with no GRAs. Also, NMFS does not agree that all revenue changes in November 2000 were necessarily due to the imposition of GRAs. Revenue changes can occur for other reasons, including the fact that several important Mid-Atlantic fisheries were closed in November 2000 due to quota attainment.

The commenters may also have misinterpreted the assumptions underlying the impacts analysis in the EA/RIR/IRFA. The analysis considered the annual impacts on all 1,158 vessels that had landed summer flounder, scup or black sea bass, or that had fished with mobile gear with mesh sizes of less than 4.5 inches (11.4 cm). This was determined to be the affected universe for these specifications. The analysis did not only consider the impacts on revenues derived solely from small-mesh species for the time period of the GRAs. Rather, the analysis incorporated the impacts of the proposed TALs, trip limits, GRAs and other measures. Importantly, the analysis indicated that all vessels fishing with small-mesh gear, at least to some extent, also participated in the summer flounder, scup or black sea bass fisheries.

NMFS recognizes the benefits to the scup resource resulting from the proposed GRA measures that are aimed at reducing scup discards in small-mesh fisheries. However, it is difficult to quantify these benefits, since stock abundance is dependent on several factors unrelated to fishing activity, making it difficult to determine a stock's response to a given management measure.

Comment 11: One commenter stated that it would be a violation of the Magnuson-Stevens Act to suspend the GRAs because suspension would be contrary to national standard 9, which requires that management measures shall, to the extent practicable, minimize bycatch and, to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

Response: NMFS is not suspending the GRAs.

Comment 12: Three commenters questioned the enforceability of the GRA measures. One commenter felt that GRAs are generally unenforceable, while two commenters felt that the two specific GRA Options contained in the proposed rule for this action are unenforceable due to their small size.

Response: The GRAs initially established in 2000 were modified effective December 23, 2000 (65 FR 81761, December 27, 2000). The configuration of the GRAs implemented through that rule were the same as the GRAs in scup Options I and II. The U.S. Coast Guard indicated, in reviewing the proposal to modify the GRAs, that the geographic configuration, size, and time periods of the GRAs contained in Options I and II are enforceable, and that they can provide adequate surveillance to detect the majority of fishing vessels operating in the GRAs. NMFS notes that the GRAs in Option IV, which are implemented through this final rule, are larger in area and more regularly shaped than the existing GRAs, and, therefore, should be more easily enforced than the current GRAs.

Comment 13: One commenter was concerned that all of the scup options represent a retreat from regulations designed to maximize protection of juvenile scup. The commenter felt that the options reduce impacts on small-mesh fisheries at the expense of scup and other bycatch species. This commenter appeared to support the GRAs originally implemented in the 2000 specifications based on the belief that either of the revised GRA options contained in the proposed rule would weaken scup rebuilding.

Response: As stated in the responses to comments 7 and 8, the GRAs in Option IV, and implemented through this final rule, will provide protection to the scup resource and allow it to rebuild, while mitigating to some extent the negative economic impacts on small-mesh fisheries.

Comment 14: Three commenters favored raising the minimum mesh threshold for scup from 200 lb (90.7 kg) to 500 lb (226.8 kg) for the November 1 through April 30 period. These commenters stated that such a measure would help reduce regulatory discards in the scup fishery. One commenter opposed the measure and stated that it would violate the overfishing, rebuilding, and bycatch reduction requirements of the Magnuson-Stevens Act.

Response: NMFS raised this issue in the proposed rule and specifically requested public comment. It is not possible to quantify the effect of increasing the minimum mesh size threshold on scup discards at this time. If discards are converted to landings due to the change in the mesh threshold, without additional discards occurring when the 500-lb (226.8-kg) threshold is reached, as assumed by the Council and industry, then the impact on scup mortality would be negligible. In the absence of information to the contrary, this final rule implements an increase in the threshold as recommended by the Council.

Comment 15: One commenter supported an increase in the TAL for black sea bass to the least restrictive level (7.91 million lb (3.59 million kg)) presented in the alternatives analyzed in the EA/RIR/IRFA.

Response: The commenter is recommending a harvest level that was not formally considered by the Council, but was analyzed in the impacts analysis for purposes of comparison. This level was not recommended by the Council and is not implemented in this final rule. The harvest level recommended by the commenter would result in an exploitation rate that would exceed the black sea bass exploitation target for 2001, as described in the FMP.

Comment 16: Two commenters supported the change in the black sea bass regulations that specify landing limits as possession limits. Five commenters generally supported changes to the specific possession limits, though they did not support all of the specific proposed changes. In general, the commenters were seeking lower possession limits that would enable fishermen to fish for the entire quarter.

Response: This final rule implements the proposed changes to the black sea bass trip limits for 2001.

Changes From the Proposed Rule

In § 648.14(a)(122), ''*Loligo* squid'' is added to the list of species that are not exempt from the GRA requirements and references to the GRAs are revised.

In § 648.122, paragraph (a) is revised to reflect the dates and coordinates of the newly revised Southern GRA. Also, in § 648.122, paragraph (c) is revised to reflect the removal of Northern GRA II, and is replaced with the transiting provisions that were formerly contained in paragraph (d) and paragraph (d) is removed and reserved.

In § 648.123, paragraph (a)(5) is revised for consistency with other net stowage regulations.

No other changes were made from the proposed rule.

Classification

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

This action establishes annual quotas and related management measures for the scup, and black sea bass fisheries, which are used to control harvest of these fisheries and to restrict landings when their quotas are harvested. Action to restrict landings must be taken immediately upon attainment of the quota to conserve fishery resources. The Winter I scup allocation and the Quarter 1 black sea bass allocation have been harvested. It would be contrary to the public interest to provide prior notice of these restrictions, since the allocations have already been harvested and the regulations require the publication of this action. Failure to implement this provision without due expedition would result in overfishing. Therefore, the Assistant Administrator for Fisheries, NOAA (AA) finds good cause under 5 U.S.C. 553(b)(B) to waive the requirement to provide prior notice and opportunity for public comment on the closure of the Winter I scup fishery in the coastal states from Maine through North Carolina and closure of the Quarter 1 black sea bass fishery in these states north of 35°15.3′ N. lat. Failure to implement this provision immediately would result in overfishing, so under 5 U.S.C. 553(d)(3), the AA also finds good cause to waive the 30-day delay in effectiveness of the closure of the Winter I scup fishery in the coastal states from Maine through North Carolina and closure of the Quarter 1 black sea bass fishery in these states north of 35°15.3′N. lat. Likewise, it would be impracticable to delay implementation of the remaining quota provisions, because doing so would prevent the agency from carrying out its function of preventing overfishing of the scup, and black sea bass resources in the remaining periods. The fisheries covered by this action are already in progress and quota monitoring for the fishing years began on January 1, 2001. Therefore, the AA finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for the 2001 quotas and related management measures, including the landings restrictions. The provision in this final rule that increases the threshold possession limit for scup above which a vessel is required to use 4.5-inch (11.4-cm) minimum mesh from 200 lb (90.7 kg) to 500 lb (226.8 kg) relieves a restriction and, under 5 U.S.C. 553(d)(1), is not subject to a 30-day delay in effectiveness.

NMFS determined that this rule will be implemented in a manner that is consistent, to the maximum extent practicable, with the approved coastal management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida. This determination was submitted for review by the responsible state agencies on October 24, 2000, under section 307 of the Coastal Zone Management Act. The following states submitted responses concurring with NMFS' determination: Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, North Carolina and Georgia. Maine, New Hampshire, Maryland, South Carolina and Florida did not respond and, therefore, consistency is inferred. The State of Connecticut concurred with the determinations for all of the components of the proposed 2001 specifications except for the summer flounder TAL, which is not included in this action.

The Council and NMFS prepared a final regulatory flexibility analysis (FRFA) for this action. The document contains an analysis of the final scup and black sea bass analysis and a draft analysis of the proposed summer flounder measures. A copy of this analysis is available from the Regional Administrator (see **ADDRESSES**). The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated in its entirety here. A summary of the FRFA follows.

A description of the reasons why action by the agency is being taken and the objectives of this final rule are explained in the preambles to the

proposed rule and final rule and are not repeated here. This action does not contain any collection-of- information, reporting, recordkeeping, or other compliance requirements.

Public Comments

Thirty-four comments were received on the measures contained in the proposed rule. Four of the comments exclusively addressed the summer flounder measures, which are not implemented through this final rule. Two were submitted in response to the initial regulatory flexibility analysis (IRFA) of the expected impacts of these measures on small entities. NMFS has responded to these comments in the Comments and Responses section of this final rule (see response to Comment 10). Additional comments were received not specifically on the IRFA, but related to economic impacts (see responses to Comments 7 and 16). Changes were made to the measures outlined in the proposed rule regarding the scup TAL; the size, location, and season of the GRAs; and exemptions to the requirements of the GRAs. Although these changes were not directly related to the comments received on the IRFA, the intent of the changes was, in part, to minimize the economic effect on small entities. These changes and the reasons for them are discussed in the responses to Comments 1, 7, 8 and 13, as well as in the preamble to this final rule.

Number of Small Entities

The measures established by this action potentially impact a total of 1,158 vessels that participated in at least one of the summer flounder, scup, and black sea bass fisheries or that had fished with mobile gear with less than 4.5-inch (11.43-cm) mesh inside at least one of the proposed GRAs.

Minimizing Significant Economic Impact on Small Entities

In the FRFA, NMFS analyzed the measures being implemented in this action. Although summer flounder measures are not being implemented through this action, a summer flounder TAL of 17.91 million lb (8.12 million kg) was assumed for comparing the impacts of the various options. The analysis compared the effects of the measures with both the 2000 adjusted quotas and with the actual 2000 landings when available. When not available, 1999 landings were used. In terms of overall impacts on revenues, the scup measures selected for implementation (Option V) have the second highest positive impact on revenues. Using the landings baseline proration method, Options I, III, and V are expected to yield total gross revenues higher than those yielded by the status quo measures by approximately $0.91 million, $0.40 million and $0.70 million respectively, whereas Options II and IV yielded total gross revenues lower than the status quo by approximately $0.16 million and $0.13 million, respectively. Option I is presumed to have produced the highest overall revenues because the *Loligo* fishery is exempted from the GRA restrictions. This Option was not selected for implementation in this action because, as explained in the preamble, available information does not justify an exemption of the *Loligo* fishery.

The FRFA also analyzed revenue impacts on individual vessels, as summarized here:

PERCENT OF VESSELS EXPERIENCING REVENUE LOSS > 5%

	Landings Baseline	Quota Baseline
Option I	2.1%	3.4%
Option II	3.2%	4.6%
Option III	2.8%	4.1%
Option IV	2.9%	4.7%
Option V	2.9%	4.4%

The measures selected for implementation (Option V) have slightly greater impacts than either Option I or Option III. As discussed earlier, Option I was not selected for implementation because the available information does not support an exemption for *Loligo* squid. The impact of Option III is presumed to be lower because there are no GRAs established. This alternative was not selected for implementation because, as explained in the preamble, NMFS believes that GRAs remain necessary for scup conservation. The specific GRAs implemented by this action were selected to moderate the economic impacts on small entities by extending GRAs further south and opening the Hudson Canyon area.

For black sea bass, the harvest level adopted in this final rule minimizes significant economic impacts while achieving the stated objectives of the FMP. No other harvest level that was considered would meet this objective while minimizing significant economic impacts on small entities.

Revision of the trip limits in the scup and black sea bass fisheries were recommended by the Council to allow these fisheries to remain open for a longer period of time, preferably for the entire quota period. This is expected to reduce the period of time that a fishery would be closed, and, thereby, provide for a more reliable stream of income for small entities.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule. Such comments should be sent to the Northeast Regional Administrator (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 22, 2001.

William T. Hogarth

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.14, paragraph (a)(123) is removed; and paragraphs (a)(84), (a)(92), (a)(122) and (u)(9) are revised to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(84) Fish for, catch, possess, or retain scup in or from the EEZ north of 35°15.3' N. lat. in excess of the amount specified in § 648.123 (500 lb (226.8 kg) or more from November 1– April 30, or 100 lb (45.4 kg) or more from May 1– October 31), unless the vessel meets the gear restrictions in § 648.123.

* * * * *

(92) Fish for, catch, possess, or retain 1,000 lb (453.4 kg) or more of black sea bass in or from the EEZ north of 35°15.3′ N. lat., the latitude of Cape Hatteras Light, NC, to the U.S. - Canadian border, unless the vessel meets the gear restrictions of § 648.144.

* * * * *

(122) Fish for, catch, possess, retain or land *Loligo* squid, silver hake or black sea bass in or from the areas and during the time periods described in § 648.122(a) or (b) while in possession of any trawl nets or netting that do not meet the minimum mesh restrictions or that are modified, obstructed, or constricted, as specified in § 648.122 and § 648.123(a), unless the nets or

netting are stowed in accordance with § 648.23(b).

* * * * *

(u) * * *

(9) Possess, retain, or land black sea bass harvested in or from the EEZ in excess of the commercial possession limit established at § 648.140.

* * * * *

3. In § 648.120, paragraph (b)(2) is revised to read as follows:

§ 648.120 Catch quotas and other restrictions.

* * * * *

(b) * * *

(2) Possession limits for the Winter I and Winter II periods. The possession limit is the maximum quantity of scup that is allowed to be landed within a 24-hour period (calendar day).

* * * * *

4. In § 648.122, paragraph (d) is removed and reserved, and paragraphs (a), (b), and (c) are revised to read as follows:

§ 648.122 Season and area restrictions.

(a) *Southern Gear Restricted Area*–(1) *Restrictions*. From January 1 through March 15, all trawl vessels in the Southern Gear Restricted Area that fish for or possess non-exempt species as specified in paragraph (a)(2) of this section must fish with nets that have a minimum mesh size of 4.5 inches (11.43 cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net. For codends with fewer than 75 meshes, the minimum-mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the headrope, excluding any turtle excluder device extension, unless otherwise specified in this section. The Southern Gear Restricted Area is an area bounded by straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the Regional Administrator upon request):

SOUTHERN GEAR RESTRICTED AREA

Point	N. Lat.	W. Long.
SGA1	39°20′	72°50′
SGA2	39°20′	72°25′
SGA3	38°00′	73°55′
SGA4	37°00′	74°40′
SGA5	36°30′	74°40′
SGA6	36°30′	75°00′
SGA7	37°00′	75°00′
SGA8	38°00′	74°20′
SGA1	39°20′	72°50′

(2) *Non-exempt species*. Unless otherwise specified in paragraph (d) of this section, the restrictions specified in paragraph (a)(1) of this section apply only to vessels in the Southern Gear Restricted Area that are fishing for or in possession of the following non-exempt species: *Loligo* squid, black sea bass and silver hake (whiting).

(b) *Northern Gear Restricted Area I*–(1) *Restrictions*. From November 1 through December 31, all trawl vessels in the Northern Gear Restricted Area I that fish for or possess non-exempt species as specified in paragraph (b)(2) of this section must fish with nets that have a minimum mesh size of 4.5 inches (11.43 cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net. For codends with fewer than 75 meshes, the minimum-mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the headrope, excluding any turtle excluder device extension, unless otherwise specified in this section. The Northern Gear Restricted Area I is an area bounded by straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the Regional Administrator upon request):

NORTHERN GEAR RESTRICTED AREA I

Point	N. Lat.	W. Long.
NGA1	41°00′	71°00′
NGA2	41°00′	71°30′
SGA3	40°00′	72°40′
SGA4	40°00′	72°05′
NGA1	41°00′	71°00′

(2) *Non-exempt species*. Unless otherwise specified in paragraph (d) of this section, the restrictions specified in paragraph (b)(1) of this section apply only to vessels in the Northern Gear Restricted Area I that are fishing for, or in possession of, the following non-exempt species: *Loligo* squid, black sea bass and silver hake (whiting).

(c) *Transiting*. Vessels that are subject to the provisions of the Southern and Northern GRAs, as specified in paragraphs (a) and (b) of this section, respectively, may transit these areas provided that trawl net codends on board of mesh size less than that specified in paragraphs (a) and (b) of this section are not available for immediate use and are stowed in accordance with the provisions of § 648.23(b).

(d) [Reserved]

* * * * *

5. In § 648.123, paragraphs (a)(1) and (a)(5) are revised to read as follows:

§ 648.123 Gear restrictions.

(a) * * *

(1) *Minimum mesh size*. The owners or operators of otter trawlers who are issued a scup moratorium permit and who possess 500 lb (226.8 kg) or more of scup from November 1 through April 30, or 100 lb (45.4 kg) or more of scup from May 1 through October 31, must fish with nets that have a minimum mesh size of 4.5 inches (11.43 cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net. For codends with fewer than 75 meshes, the minimum-mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the headrope, excluding any turtle excluder device extension. Scup on board these vessels shall be stored separately and kept readily available for inspection.

* * * * *

(5) *Stowage of nets*. The owner or operator of an otter trawl vessel retaining 500 lb (226.8 kg) or more of scup from November 1 through April 30, or 100 lb (45.4 kg) or more of scup from May 1 through October 31, and subject to the minimum mesh requirements in paragraph (a) (1) of this section, and the owner or operator of a mid water trawl or other trawl vessel subject to the minimum mesh size requirement in § 648.122, may not have available for immediate use any net, or any piece of net, not meeting the minimum mesh size requirement, or mesh that is rigged in a manner that is inconsistent with the minimum mesh size. A net that is stowed in conformance with one of the methods specified in § 648.23 (b), and that can be shown not to have been in recent use, is considered to be not available for immediate use.

* * * * *

6. In § 648.140, paragraph (b) (2) is revised to read as follows:

§ 648.140 Catch quotas and other restrictions.

* * * * *

(b) * * *

(2) A commercial possession limit for all moratorium vessels may be set from a range of zero to the maximum all owed to assure that the quarterly quota is not exceeded, with the provision that these quantities be the maximum

allowed to be landed within a 24-hour period (calendar day).

* * * * *

[FR Doc. 01–4973 Filed 2–26–01; 4:00 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013-1013-01; I.D. 022601B]

Fisheries of the Economic Exclusive Zone Off Alaska; Groundfish Fisheries by Vessels Using Hook-and-Line Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for groundfish by vessels using hook-and-line gear in the Gulf of Alaska (GOA), except for sablefish or demersal shelf rockfish. This action is necessary because the first seasonal bycatch mortality allowance of Pacific halibut apportioned to hook-and-line gear targeting groundfish other than sablefish or demersal shelf rockfish in the GOA has been caught.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 26, 2000, until 1200 hrs, A.l.t., May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Pacific halibut bycatch mortality allowance for groundfish included in the other hook-and-line fishery, which is defined at § 679.21(d)(4)(iii)(C), was established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001) for the first season, the period January 1, 2001, through May 17, 2001, as 175 metric tons. The other hook-and-line fishery includes all groundfish except sablefish or demersal shelf rockfish.

In accordance with § 679.21(d)(7)(ii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the first seasonal apportionment of the 2001 Pacific halibut bycatch mortality allowance specified for the hook-and-line groundfish fisheries other than sablefish or demersal shelf rockfish in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for groundfish other than sablefish or demersal shelf rockfish by vessels using hook-and-line gear in the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action because the first seasonal bycatch mortality allowance of Pacific halibut apportioned to hook-and-line gear in the GOA has been caught constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly the need to implement these measures in a timely fashion because the first seasonal bycatch mortality allowance of Pacific halibut apportioned to hook-and-line gear in the GOA has been caught constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: February 26, 2001.

Dean Swanson,

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

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