

used in models used for different purposes. For instance, commenters that believe the modeling of the economic cost of providing network facilities or access costs can or should differ from the modeling of the economic costs of providing the services receiving universal service support should describe their reasons, including in part the differences in network investments required. Specifically, they should identify any costs included in unbundled elements that are directly attributable to unsupported services. More broadly, the Bureau seeks comment on whether the various inputs to the models, such as rate of return and depreciation, can or should differ for these different purposes.

6. The Bureau looks forward to receiving comments and working with all interested parties in developing reasonable approaches to using economic cost models as tools in resolving the various critical telecommunications policy issues described above. The comments should be filed on or before February 3, 1997, with reply comments due February 14, 1997. Commenters must file an original and four copies of their comments with the Office of the Secretary, Federal Communications Commission, Room 222, 1919 M Street, N.W., Washington, D.C. 20554. Comments should reference CPD Docket No. 97-2. Commenters should send one copy of their comments to the Commission's copy contractor, International Transcription Service, Room 140, 2100 M Street, N.W., Washington, D.C. 20037. Comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554.

7. Parties are also asked to submit comments on diskette. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Wanda M. Harris, Competitive Pricing Division, Common Carrier Bureau, 1919 M Street, N.W., Room 518, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette in an IBM compatible format using WordPerfect 5.1 for Windows software in a "read only" mode. The diskette should be clearly labelled with the party's name, proceeding, and date of submission. The diskette should be accompanied by a cover letter.

List of Subjects

47 CFR Part 36

Communications common carriers, Telephone, Uniform System of Accounts.

47 CFR Part 51

Communications common carriers, Telephone.

47 CFR Part 61

Communications common carriers, Tariffs, Telephone.

47 CFR Part 69

Access charges, Communications common carriers, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97-2502 Filed 2-4-97; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 960805216-7013-04; I.D. 121796B]

RIN 0648-AH06

Fisheries of the Northeastern United States; Regulatory Amendment to the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule and request for comments to implement a regulatory amendment to the Fishery Management Plan (FMP) for the Summer Flounder, Scup, and Black Sea Bass Fisheries. This proposed regulatory amendment would revise the allocation and management of the commercial scup quota.

DATES: Public comments must be received on or before March 7, 1997.

ADDRESSES: Comments on this proposed rule should be sent to Dr. Andrew A. Rosenberg, Regional Administrator, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on Scup Regulatory Amendment."

Comments regarding burden-hour estimates for collection-of-information requirements contained in this proposed rule should be sent to the Regional Administrator, Northeast Region, NMFS, at the address above, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20502 (Attention: NOAA Desk Officer).

Copies of the regulatory amendment are available upon request from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, 508-281-9221.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) adopted an FMP for the Scup Fishery for NMFS review in November 1995. To reduce the number of separate regulations issued by the Federal Government, however, the proposed scup FMP was incorporated into the Summer Flounder FMP as Amendment 8 to that FMP. Amendment 8 was approved by NMFS on July 29, 1996 (61 FR 43420, August 23, 1996). The Commission then adopted a plan with measures that are identical to those in Amendment 8. The Commission plan would confer to States responsibility of managing their quota for the scup industry in their state and can implement and enforce landing limits. In addition, quota monitoring and closures upon quota attainment would be state compliance measures under the Commission plan, as stated in the Atlantic Coastal Fisheries Cooperative Management Act.

Due to the seriously overfished status of the stock, the Council had requested, and the Secretary of Commerce (Secretary) implemented, emergency regulations to enact a minimum mesh requirement and minimum fish size for the fishery. These measures were in effect from March 22, 1996, until regulations implementing Amendment 8 were published on September 23, 1996.

Amendment 8 established target annual exploitation rates for rebuilding the stock that are to be reached through a total allowable catch (TAC) for the scup fishery that includes both landings and discards. The TAC is divided into a commercial TAC and a recreational TAC. Discard estimates are then subtracted from each of those allocations. The result is an annual

commercial quota and recreational harvest limit. The commercial quota for the fishing year beginning on January 1, 1997, is allocated on a coastwide basis. When the Council and the Commission adopted Amendment 8 for submission, they stated their intent to begin a process to better define the system that would be used to distribute the commercial quota. However, to begin the rebuilding of the resource, they decided to submit Amendment 8 before the coastwide quota system was refined so that regulations could be implemented as quickly as possible.

The current regulations allow the commercial quota system to operate without restrictions to control the rate of harvest, e.g., trip limits or seasonal allocations. Without specific restrictions, it is possible that large, offshore vessels fishing in the first portion of the year will fill the annual quota quickly, closing the fishery before other participants have an opportunity to fish on the stock. Therefore, the Council and the Commission have developed another system to allow for a more equitable distribution of the quota to the commercial sector.

The proposed measure would implement a commercial quota system in which the TAC would be allocated into two winter periods: January–April (45.11 percent) and November–December (15.94 percent), and one summer period: May–October (38.95 percent). The discard estimates for each period would be subtracted from the TAC for each period, to derive the commercial quota for each period. The two winter periods would each be allocated to the coastal states from Maine to North Carolina on a coastwide basis, during which coastwide landing limits would be in effect. During the summer period, a state-by-state quota system would be in effect, and the quota would be managed in the same manner as the state-by-state quota system currently in effect in the commercial summer flounder fishery.

Issues of Concern

Concerns have been raised to NMFS about the lack of gear-specific discard estimates that may result in inequitable treatment between the inshore and offshore fisheries. Some argue that because the discard estimates are based on offshore trawler discard data, and the offshore trawler discard rates are greater than the discard rates for the inshore fishery, this would penalize the summer inshore fishery. The summer inshore fishery uses predominantly different gear types than the offshore fishery. The public is encouraged to submit comments on this issue.

NMFS also is concerned that the implication of *de minimus* status is not defined in the amendment. It is not possible to ascertain what *de minimus* means to a state, versus a state that does not share that distinction, with regard to implementation of the regulations. Therefore, NMFS invites comments on that provision.

Proposed Measures

The regulatory amendment would implement in 1997 a commercial quota system in which the TAC would be allocated into three periods: Winter I (January–April), Summer (May–October) and Winter II (November–December). The discard estimates for each period would be subtracted from the TAC for that period, to derive the commercial quota for each period. Based on historical data, the quota would be allocated to each period as follows: 45.11 percent to Winter I, 38.95 percent to Summer, and 15.94 percent to Winter II. During the two winter periods, the commercial fishery would operate under a coastwide quota with landing limits. These landing limits would be set annually by the Monitoring Committee. In Winter I, the coastwide landing limit may be decreased when a specified percentage of the quota is attained for that period. Landing limits would be specified annually through the process established in the FMP and could not be altered once adopted by NMFS. The quota for the two winter periods would be allocated to the coastal states from Maine to North Carolina. Fishing for or landing scup would be prohibited when the quota is attained. NMFS will implement the closures for federally permitted vessels and dealers, and the states would take complementary action for their state-permitted vessels and dealers. As stated above, quota monitoring and closures upon quota attainment by the states would be compliance measures enforceable by the states.

During the Summer period, a state-by-state quota would be in effect. Based on historical data, the quota for that period would be allocated among the states based on their percentage share of commercial landings from May to October for the years 1983 through 1992. Each state would be closed to the landing of scup when its individual allocation of quota is attained. Any overages in the quota harvest that occurs during each of the winter periods would be deducted from that period's allocation the following year. Any overages in the quota harvest that occurs in a state during the Summer period would be deducted from that state's

Summer period allocation the following year.

The regulatory amendment also would confer *de minimus* status annually upon any state in which commercial scup landings during the Summer period for the last preceding calendar year for which data are available were less than 0.1 percent of the total Summer period's quota. If implemented, this action would make the FMP, which is jointly administered by both the Council and the Commission, consistent with the Commission plan, which allows for such status for states. States that have been conferred *de minimus* status would be allowed to harvest up to 0.1 percent, even though they have historically harvested less than 0.1 percent.

The coastwide quota for 1997 specified under Amendment 8 will be implemented prior to issuance of the regulations proposed in this regulatory amendment. (The proposed specifications for the 1997 scup fishery were published at 61 FR 64854, December 9, 1996.) This regulatory amendment specifies that any quota harvested during that time in excess of the proposed 1997 Winter I allocation would be deducted from the quota allocation for the November–December 1997 (Winter II) period. Landings in excess of both Winter 1997 periods would be deducted from 1998 Winter periods. This action would not affect the summer allocation in either year.

Classification

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The proposed rule would revise the manner in which the commercial quota for the scup fishery is allocated, but would not alter the total quota. The impact of the commercial quota on the commercial fishery was completely described in the certification that accompanied the proposed specifications for the 1997 scup fishery, and is not repeated here.

Currently, regulations specify that the scup quota be allocated to the commercial fishery on a coastwide basis. No restrictions exist to control the rate of harvest (e.g., seasonal closures or trip limits). Without restrictions, it is possible that the quota would be harvested early in the year by larger, offshore vessels, resulting in market gluts, irregular

supplies, and exvessel price fluctuations. Additionally, the current system does not recognize the seasonal nature of the scup fishery (i.e., large vessels fishing offshore in the winter, and small vessels fishing inshore in the summer). According to the NMFS weighout database (database), approximately 525 fishing vessels landed scup during 1995. It is concluded that most of these were fishing offshore. There is no estimate on the number of vessels taking part in the inshore fishery, as they could be, for the most part, state licensed and may not be completely represented in the database. The database is used to estimate the numbers of participants because prior to 1997, no permit requirement existed for this fishery in the exclusive economic zone. However, all of the known participants would readily fall under the definition of a small business, having annual receipts of less than \$2.0 million.

The proposed amendment endeavors to mitigate the impacts of unrestricted harvest and untimely closures by establishing a commercial quota system in which the total allowable catch (TAC) would be allocated into three seasonal periods: Winter I (January–April), Summer (May–October) and Winter II (November–December). The discard estimates for each period would be subtracted from the TAC for each period to derive the commercial quota for each period. During the two winter periods, the commercial fishery would operate under a coastwide quota with landing limits. During the summer period, a state-by-state quota would be in effect.

While the quota for 1997 is based on reported historical landings, no quota was ever implemented for this fishery prior to 1997. This new quota may result in the closure of the fishery, which, if it occurs, could impact those small entities. More complete impacts may be compiled during the comment period of the proposed rule, which specifically requests comments on this issue. The Mid-Atlantic Fishery Management Council concluded that a substantial number of these small entities (greater than 20 percent) operating in the commercial scup fishery could be directly or indirectly affected by the measures proposed in this regulatory amendment. However, based on available data, the economic impact of this quota is not expected to be significant. When compared to 1994 revenues, the quota in 1997 would decrease the total revenues \$1.87 million. It is not expected that any entities would be expected to cease operations because of the 1997 quota and no change is expected in compliance costs for these entities.

Historical data indicate that a decrease in landings generally leads to an increase in the exvessel price for scup. The RIR analysis for this regulatory amendment included examination of the proposal to address the seasonal nature of the scup fishery and allow for a more equitable distribution of commercial quota over the year, versus the coastwide quota. The intent of this regulatory amendment is to preserve the historical pattern of commercial harvest of scup by seasons to reduce the impact on small entities. The analysis found that the proposed amendment resulted in a more

consistent supply, and more stable prices for the commercial sector. Based on unpublished NMFS weighout data (Maine through Virginia) in 1994, total commercial landings for scup were estimated at 8,840,900 lb. The 1997 quota would reduce commercial scup landings by 2,840,900 lb when compared to the 1994 commercial landings. The effect on the overall scup exvessel price, given the potential reduction in landings from the implementation of the quota proposed in this amendment, would depend on the elasticity of demand for scup. Since no study has estimated the exvessel demand function for scup, revenue changes from the implementation of the new quota were calculated by taking the exvessel price for scup (value divided by pounds) for 1994, and multiplying this value by the potential change in landings. Assuming the 1994 exvessel price of \$0.66 per pound, the 1997 quota would yield a decrease in revenues of \$1,874,994 from the 1994 period. However, based on preliminary unpublished NMFS weighout data (Maine through Virginia), scup commercial landings were estimated at 5,947,253 lb and valued at \$5,096,863 (\$0.85 per pound) in 1995. It appears that the decrease in landings from 1994 to 1995 has increased exvessel price for scup during this period. Given preliminary scup landings for 1995, the 1997 quota would be expected to slightly increase exvessel revenue relative to 1994 landings.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). The management measure that provides for a state request for a quota transfer has been approved by OMB under control number 0648-0202, and is estimated to take 1 hour per response.

The response estimate shown includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments to NMFS and OMB (see ADDRESSES) regarding this burden estimate, including its accuracy, whether the collection of information is necessary for the proper performance of NMFS' functions, suggestions on how to enhance the quality, utility, and clarity of the information to be collected, and how to reduce or minimize the burden of the collection of information on those who must respond.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 30, 1997.

Rolland A. Schmitt, Jr.,
Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be 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 § 648.4, paragraph (b) is revised to read as follows:

§ 648.4 Vessel permits.

* * * * *

(b) *Permit conditions.* Vessel owners who apply for a fishing vessel permit under this section must agree as a condition of the permit that the vessel and the vessel's fishing activity, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken or landed), are subject to all requirements of this part, unless exempted from such requirements under this part. All such fishing activities, catch, and gear will remain subject to all applicable state requirements. Except as otherwise provided in this part, if a requirement of this part and a management measure required by a state or local law differ, any vessel owner permitted to fish in the EEZ for any species managed under this part must comply with the more restrictive requirement. Owners and operators of vessels fishing under the terms of a summer flounder moratorium, scup moratorium, or black sea bass moratorium permit must also agree not to land summer flounder, scup, or black sea bass, respectively, in any state after NMFS has published a notification in the Federal Register stating that the commercial quota for that state or period has been harvested and that no commercial quota is available for the respective species. A state not receiving an allocation of summer flounder, scup or black sea bass, either directly or through a coastwide allocation, is deemed to have no commercial quota available. Owners or operators fishing for surf clams and ocean quahogs within waters under the jurisdiction of any state that requires cage tags are not subject to any conflicting Federal minimum size or tagging requirements. If a surf clam and ocean quahog requirement of this part differs from a surf clam and ocean quahog management measure required

by a state that does not require cage tagging, any vessel owners or operators permitted to fish in the EEZ for surf clams and ocean quahogs must comply with the more restrictive requirement while fishing in state waters. However, surrender of a surf clam and ocean quahog vessel permit by the owner by certified mail addressed to the Regional Director allows an individual to comply with the less restrictive state minimum size requirement, as long as fishing is conducted exclusively within state waters. 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. latitude, any vessel owners that hold valid commercial permits for both the black sea bass and the NMFS, Southeast Region Snapper-Grouper fisheries, may surrender their moratorium black sea bass permit by certified mail addressed to the Regional Director 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. latitude. 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.

* * * * *

3. In § 648.14, paragraphs (a)(89) through (a)(96) are redesignated as paragraphs (a)(90) through (a)(97), respectively, and a new paragraph (a)(89) is added to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(89) Fish for, catch or retain scup in or from the EEZ north of 35°15.3' N. lat. in excess of the landing limit established pursuant to §§ 648.120 (b)(2) and (b)(3).

* * * * *

4. In § 648.120, paragraph (b)(1) is revised, paragraphs (b)(2) through (b)(8) are redesignated as paragraphs (b)(5) through (b)(11), respectively, new paragraphs (b)(2) through (b)(4) are added, paragraphs (c) and (d) are revised, and paragraphs (e) and (f) are added to read as follows:

§ 648.120 Catch quotas and other restrictions.

* * * * *

(b) * * *

(1) The commercial quota for each of the three periods specified in paragraph (d)(1) of this section, to be set from a range of 0 to the maximum allowed to achieve the specified exploitation rate. The commercial quota will be

established by estimating the annual Total Allowable Catch (TAC), allocating it into the three periods, and deducting the discard estimates for each period.

(2) Landing limits for the Winter I and Winter II periods.

(3) Percent of landings attained at which the landing limit for the Winter I period will be reduced.

(4) Those states eligible for *de minimus* status, based upon commercial scup landings for the last preceding calendar year for which data are available.

* * * * *

(c) *Annual fishing measures.* The Demersal Species Committee shall review the recommendations of the Scup Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall recommend to the MAFMC measures necessary to assure that the specified exploitation rate will not be exceeded. The MAFMC shall review these recommendations and, based on these recommendations and any public comment, recommend to the Regional Director measures necessary to assure that the specified exploitation rate will not be exceeded. The MAFMC's recommendation must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Regional Director shall review these recommendations and any recommendations of the Commission. After such review, NMFS will publish a proposed rule in the Federal Register by October 15 to implement a commercial quota, specifying the amount of quota allocated to each of the three periods, landing limits for the Winter I and Winter II periods, 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. NMFS will publish a proposed rule in the Federal Register by February 15 to implement additional management measures for the recreational fishery, if the Regional Director determines that such measures are necessary to assure that the specified exploitation rate will not be exceeded. After considering public comment, NMFS will publish a final rule in the Federal Register to implement the annual measures.

(d) *Distribution of Commercial Quota.*
(1) The annual commercial quota will be allocated into three periods, based on the following percentages:

Period	Percent
Winter I—January–April	45.11
Summer—May–October	38.95
Winter II—November–December ..	15.94

(2) The Winter I and Winter II commercial quotas will each be distributed to the coastal states from Maine through North Carolina on a coastwide basis.

(3) The Summer commercial quota will be allocated to the coastal states from Maine through North Carolina, based upon the following percentages:

**SUMMER PERIOD (MAY–OCTOBER)
COMMERCIAL QUOTA SHARES**

State	Share (percent)
Maine	0.13042
New Hampshire	0.00004
Massachusetts	15.49117
Rhode Island	60.56588
Connecticut	3.39884
New York	17.05295
New Jersey	3.14307
Delaware	0.00000
Maryland	0.01288
Virginia	0.17787
North Carolina	0.02688
Total	100.00000

(4) All scup landed for sale in any state during either Winter I or Winter II shall be applied against the coastwide commercial quota for that period, regardless of where the scup were harvested. All scup landed for sale in a state during the Summer period shall be applied against that state's summer commercial quota, regardless of where the scup were harvested.

(5) All scup landed for sale in any state during the period January 1, 1997, through [effective date of the final regulations], shall be applied against the coastwide commercial quota for the 1997 Winter I period, regardless of where the scup were harvested. Any landings during that time in excess of the 1997 Winter I commercial quota will be subtracted from the 1997 Winter II period's allocation. Any overage beyond the 1997 Winter II allocation will be deducted from subsequent winter periods.

(6) Beginning in 1997, any overages of the commercial quota landed in any state, including those granted *de minimus* status, during the Summer period will be deducted from that state's Summer period quota for the following year. Beginning in 1998, any overages of the commercial quota landed in any Winter period will be subtracted from the period's allocation for the following year.

(7) Based upon any changes in the landings data available from the states for the base years 1983–92, the Commission and the Council may recommend to the Regional Director that the states' shares specified in paragraph (d)(1) of this section be revised. The Council's and the Commission's recommendation must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendation. The Regional Director shall review the recommendation of the Commission and the Council. After such review, NMFS will publish a proposed rule in the Federal Register to implement a revision in the state shares. After considering public comment, NMFS will publish a final rule in the Federal Register to implement the changes in allocation.

(e) *De minimus status.* Any state in which commercial scup landings during the Summer period for the last preceding calendar year for which data are available were less than 0.1 percent of the total Summer period's quota could be granted *de minimus* status by the NMFS upon the recommendation of the Council by way of a recommendation from the Monitoring Committee.

(1) The *de minimus* status will be valid only for that Summer period for which the specifications are in effect and will be effective upon filing by NMFS of the final specifications for the commercial scup fishery with the Office of the Federal Register.

(2) The total quota allocated to each *de minimus* state will be set equal to 0.1 percent of the total Summer period allocation and will be subtracted from the summer quota before the remainder is allocated to the other states.

(f) *Quota transfers and combinations.* Any state implementing a state commercial quota for scup may request approval from the Regional Director to transfer part or all of its Summer period quota to one or more states. Two or more states implementing a state commercial quota for scup may request

approval from the Regional Director to combine their quotas, or part of their quotas, into an overall regional quota. Requests for transfer or combination of commercial quotas for scup must be made by individual or joint letter(s) signed by the principal state official with marine fishery management responsibility and expertise, or his/her previously named designee, for each state involved. The letter(s) must certify that all pertinent state requirements have been met and identify the states involved and the amount of quota to be transferred or combined.

(1) Within 10 working days following the receipt of the letter(s) from the states involved, the Regional Director shall notify the appropriate state officials of the disposition of the request. In evaluating requests to transfer a quota or combine quotas, the Regional Director shall consider whether:

(i) The transfer or combination would preclude the overall Summer period quota from being fully harvested.

(ii) The transfer addresses an unforeseen variation or contingency in the fishery.

(iii) The transfer is consistent with the objectives of the Summer Flounder, Scup, and Black Sea Bass FMP and the Magnuson-Stevens Act.

(2) The transfer of quota or the combination of quotas will be valid only for the Summer period for which the request was made and will be effective upon the filing by NMFS of a notification of approval of the quota transfer or combination with the Office of the Federal Register.

(3) A state may not submit a request to transfer quota or combine quotas if a request to which it is party is pending before the Regional Director. A state may submit a new request when it receives notice that the Regional Director has disapproved the previous request or when notification of approval of the quota transfer or combination has been filed at the Office of the Federal Register.

(4) If there is a quota overage among states involved in the combination of quotas at the end of the Summer period,

the overage will be deducted from the following Summer period's quota for each of the states involved in the combined quota. The deduction will be proportional, based on each state's relative share of the combined quota for the previous Summer period. A transfer of quota or combination of quotas does not alter any state's percentage share of the overall Summer period quota specified in paragraph (d) of this section.

5. Section 648.121 is revised to read as follows:

§ 648.121 Closures.

(a) *Winter closures.* The Regional Director will monitor the harvest of commercial quota for each Winter period based on dealer reports, state data, and other available information, and shall determine the date when the commercial quota for a Winter period will be harvested. NMFS shall close the EEZ to fishing for scup by commercial vessels for the remainder of the indicated period by publishing notification in the Federal Register advising that, effective upon a specific date, the commercial quota for that period has been harvested, and notifying vessel and dealer permit holders that no commercial quota is available for landing scup for the remainder of the period.

(b) *Summer closure.* The Regional Director will monitor the Summer period state commercial quota based on dealer reports, state data, and other available information, and shall determine the date when a state commercial quota will be harvested. NMFS shall publish notification in the Federal Register advising a state that, effective upon a specific date, its Summer period commercial quota has been harvested and notifying vessel and dealer permit holders that no Summer period commercial quota is available for landing scup in that state for the remainder of the period.

[FR Doc. 97-2795 Filed 2-4-97; 8:45 am]

BILLING CODE 3510-22-P