votes, and major decisions of the Commission; and

(v) any other information a member requests be entered in the minutes.

(2) The draft of the written minutes shall be prepared and forwarded to the members by the Executive Director in a reasonable time after the meeting. The members shall inform the Executive Director or his or her designee of any proposed additions or corrections prior to the final draft being sent to the members with the packet of materials for the next Commission meeting.

(3) The Commission shall approve the written minutes at its next regularly scheduled meeting. Upon such approval, the Chairman shall certify the approval of the minutes by signing the original document. One year after adoption of the minutes, the Executive Director shall cause the tape recording of the meeting to be erased and all stenographic notes to be destroyed, unless otherwise directed by the Commission.

(4) Within a reasonable time after approval of the minutes by the Commission, the Executive Director shall make the approved minutes available for public inspection.

(5) The Executive Director shall provide copies of the certified minutes to each member and maintain the original of the certified minutes in the agency files and archives.

Joan Degiorgio,

Acting Executive Director.

[FR Doc. 96–6755 Filed 3–26–96; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 960314074–6074–01; I.D. 030696C]

RIN: 0648–XX52

Summer Flounder Fishery; Emergency for the Scup Fishery

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

ACTION: Emergency interim rule.

SUMMARY: NMFS amends the regulations implementing the Summer Flounder Fishery Management Plan (Summer Flounder FMP) to establish management measures for the scup fishery. These measures are contained in an amendment to the Summer Flounder FMP that will be submitted for NMFS review shortly. Emergency implementation of these measures is necessary because of the overexploited status of the stock. This action establishes a minimum fish size for both the recreational and commercial fisheries, and implements a minimum codend mesh requirement for otter trawl vessels that possess 4,000 lb or more (1,814 kg or more) of scup harvested in or from the exclusive economic zone (EEZ).

EFFECTIVE DATE: This emergency interim rule is effective from March 22, 1996, through June 25, 1996.

ADDRESSES: Copies of documents supporting this action, including the environmental assessment, are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New Street, Dover, DE 19901-6790.

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

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council (Council) began the development of a scup fishery management plan (scup FMP) in 1978. Although preliminary development work was done, a scup FMP was not completed.

In January 1990, the Council and the Atlantic States Marine Fisheries Commission (ASMFC) began the development of an amendment to the Summer Flounder FMP to manage scup. However, the development of an amendment to manage scup was delayed because of a series of other amendments to the Summer Flounder FMP. Work on a separate scup FMP was not resumed until 1993.

The Council and the ASMFC adopted a scup FMP for NMFS review in November 1995. The Council had accelerated its work on the scup FMP after the release in March 1995 of the Plenary Report of the 19th Stock Assessment Workshop (19th SAW). The 19th SAW report established that the scup spawning stock biomass was at a record low level, and warned that recruitment failure in a single year could collapse the fishery. The report urged immediate action to substantially reduce fishing mortality. To provide some protection to the stock immediately, the Council also voted in November 1995 to request emergency implementation on January 1, 1996, of some of the management measures contained in the proposed scup FMP. The efforts of the Council and NMFS to prepare and review the required documents associated with emergency action were delayed by the government shutdown from December 21, 1995, through January 7, 1996, and by additional shutdowns due to severe winter weather.

These delays have also affected the submission of the proposed scup FMP. In addition, subsequent to the adoption of the scup FMP by the Council, NMFS requested that the proposed scup FMP be incorporated into the Summer Flounder FMP, as an amendment, to reduce the number of separate FMPs and regulations. As a result, the Council shortly will submit the scup FMP for NMFS review as Amendment 8 to the Summer Flounder FMP.

The management unit for the fishery is scup (*Stenotomus chrysops*) in U.S. waters of the Atlantic Ocean from 35°15.3′ N. lat., the latitude of Cape Hatteras Light, N.C., northward to the U.S.-Canadian border.

Implementing regulations are authorized by the Magnuson Fishery Conservation and Management Act (Magnuson Act), and are found at 50 CFR part 625, subparts C and D. This action is consistent with the criteria contained in a ''Notice of policy guidelines for the use of emergency rules'' published at 50 CFR chapter VI (57 FR 375, January 6, 1992). The Council and NMFS agree that the biological status of the scup stock requires immediate action through this emergency interim rule for conservation and management measures to protect the stock while Amendment 8 undergoes Secretarial review. The measures contained in this action for minimum fish sizes and minimum mesh size are the same as those adopted by the Council for Amendment 8. However, issuance of this emergency rule in no way prejudges approval or disapproval of Amendment 8. Further, this emergency rule contains a gear restriction, the effective date of which will be delayed 15 days to provide adequate time for affected industry members to adjust.

Background

Abundance indices derived from NMFS trawl surveys and surveys conducted by the States of Rhode Island and Connecticut, and the Commonwealth of Massachusetts, indicate that the biomass of adult scup is at low levels. For example, the Northeast Fisheries Science Center's autumn offshore survey indices of scup (age 1+) abundance have declined dramatically in recent years. The 1993 index was the third lowest value observed in the time series and the 1994 index was the all-time lowest value since the survey began in 1967.

Reduced abundance is also evident in data collected from commercial otter trawl vessels. Standardized catch per unit effort (CPUE) of these vessels peaked in 1978 at greater than 2.5 metric tons (mt)/day. CPUE has since trended downward to about 1.0 mt/day in recent years. Based on the trawl survey and CPUE indices, the overall declining trend suggests that recent exploitation has reduced stock abundance substantially.

Additionally, the length frequency distribution of scup in commercial landings has shifted to smaller, younger fish, including young-of-year, indicating that the fishery is dependent primarily upon new year classes. Although scup may attain ages of 20 years, recent landings have been composed primarily of age 2 and 3 year old scup with a general absence of larger, older fish in the landed catch. This truncated age distribution also suggests a reduced population level.

All available information indicates that scup are overexploited and have been for several years. The scup advisory report issued from the 19th Stock Assessment Workshop Plenary Report in March 1995 stated that the current spawning stock biomass (SSB) is at a record low level and that recruitment has decreased in recent years. The report further warns that recruitment failure in a single year could collapse the fishery and that fishing mortality should be ''substantially reduced immediately.'' The current condition of the resource is such that immediate action is required to reduce fishing mortality on fully-recruited fish and allow for increases in SSB and yield. In the absence of a strong year class, continued exploitation at current levels will lead to further decline in the SSB.

In light of the overexploited condition of the stock, the Council requested emergency implementation of a 9–inch total length (TL) minimum fish size for the commercial fishery, and a 7–inch TL minimum fish size for the recreational fishery. These measures are included among those proposed for implementation in the first year of management if Amendment 8 is approved.

Discards of small fish are extremely high in this fishery and are particularly acute during years of good recruitment when small fish are abundant. NMFS has found that establishing a minimum fish size without an accompanying minimum mesh requirement would increase the discard of small fish. Therefore, this emergency action also establishes a 4–inch (10.2–cm) minimum codend mesh size for otter trawl vessels when those vessels possess 4,000 lb or more (1,814 kg or more) of scup harvested in or from the EEZ. The 4,000–lb (1,814–kg) threshold for the minimum mesh size requirement was selected through an iterative process between the Council and industry representatives. It is considered to represent the level at which the directed fishery is differentiated from the bycatch fishery. This level is substantiated by the fact that trips of 4,000 lb (1814 kg) or more accounted for 80 percent of all landings of scup in 1992 and 1993. The measures are designed to reduce discarding of small scup by otter trawl vessels, increase yields, and allow more scup to reach sexual maturity and spawn.

Analyses of these measures indicate that implementation on an emergency basis may impose a short-term cost on some harvesters, although most already use the required mesh. The benefits of implementing this action include a reduction of discards of small fish and an improved economic return to the industry due to resulting increased yields. The benefits outweigh the costs to the industry of complying with these measures.

Classification

The Assistant Administrator Fisheries, NOAA (AA) has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable law.

The AA finds that failure to implement the actions in this emergency rule could result in collapse of the fishery.

The foregoing constitutes good cause to waive the requirement to provide prior notice and an opportunity for public comment, pursuant to the authority set forth at 5 U.S.C. 553(b)(B), as such procedures would be contrary to the public interest. Similarly, the need to implement these measures in a timely manner to address a biological emergency constitutes good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness. However, a 15-day delay in effectiveness of the gear restriction contained in § 625.54, and a prohibition related to that measure in § 625.39(a)(3), is necessary to allow the industry sufficient time to adjust to this new requirement.

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

The emergency rule is exempt from the requirements of the Regulatory Flexibility Act to prepare a regulatory flexibility analysis because this rule is not required to be issued with prior notice and opportunity for public comment.

List of Subjects in 50 CFR Part 625

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 20, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 625 is amended as follows:

PART 625–-SUMMER FLOUNDER AND SCUP FISHERY

1. The authority citation for part 625 continues to read as follows:

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

2. Subpart C, consisting of §§ 625.31, 625.32, 625.33, and 625.39, and subpart D, consisting of §§ 625.53 and 625.54 are added to read as follows:

Subpart C—General Provisions, Scup

§ 625.31 Purpose and scope.

The regulations in this part govern the conservation and management of scup.

§ 625.32 Definitions.

In addition to the definitions in the Magnuson Act and in § 620.2 of this chapter, the terms used in this part have the following meanings:

Charter or party boat means any vessel that carries passengers for hire to engage in fishing.

Commercial fishing means fishing that is intended to or results in the barter, trade or sale of fish.

Land means to begin offloading fish, to offload fish, or to enter port with fish.

Recreational fishing means fishing that is not intended to, nor does it result in, the barter, trade, or sale of fish.

Recreational fishing vessel means any vessel from which no fishing other than recreational fishing is conducted. Charter and party boats are considered recreational fishing vessels for purposes of the scup minimum size requirement.

Scup means the species *Stenotomus chrysops*.

Total length (TL) means the straight-line distance from the tip of the snout to the end of the tail (caudal fin) while the fish is lying on its side.

§ 625.33 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 620.3 of this chapter and paragraph (b) of this section.

(b) Nothing in these regulations supersedes more restrictive state management measures.

§ 625.39 Prohibitions.

(a) In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person owning or operating a vessel fishing commercially for scup, which are harvested in or from the EEZ, to do any of the following:

(1) Land or possess at sea any scup, or parts thereof, that fail to meet the minimum fish sizes specified in § 625.53(a);

(2) Sell any scup harvested in or from the EEZ that fail to meet the minimum fish size specified in § 625.53(a).

(3) Possess 4,000 or more lb (1,814.4 or more kg) of scup harvested in or from the EEZ unless the vessel meets the minimum mesh size requirement specified in § 625.54(a).

(4) Fish with or possess nets or netting in the EEZ that do not meet the minimum mesh requirement, or that are modified, obstructed, constricted, or constructed with mesh in which the bars entering or exiting the knots twist around each other, if subject to the minimum mesh requirement specified in § 625.54, unless the nets or netting are stowed in accordance with § 625.24(d).

(5) Engage in recreational fishing in the EEZ while simultaneously conducting commercial fishing operations.

(b) It is unlawful for the owner or operator of any recreational fishing vessel, including party or charter boats, to: (1) Possess scup harvested in or from the EEZ smaller than the minimum size limit for recreational fishermen established pursuant to § 625.53(b);

(2) [Reserved]

(c) It is unlawful for any person to do any of the following:

(1) Purchase any scup harvested in or from the EEZ that fail to meet the minimum fish size specified in § 625.53(a).

(2) Possess any scup harvested in or from the EEZ that fail to meet the minimum fish size specified in § 625.53(b).

(3) Sell any scup harvested in or from the EEZ that fail to meet the minimum fish sizes specified in § 625.53(a).

(4) Land any scup harvested in or from the EEZ in fillet form with the skin removed.

Subpart D—Management Measures, Scup

§ 625.53 Minimum sizes.

(a) The minimum size for scup is 9 inches (22.9 cm) total length for all vessels engaged in commercial fishing.

(b) The minimum size for scup is 7 inches (17.8 cm) TL for all vessels that are engaged in recreational fishing.

(c) The minimum size applies to whole fish or any part of a fish found in possession, e.g., fillets.

§ 625.54 Gear restrictions.

(a) *General.* Applicable April 8, 1996, otter trawl vessels that land or possess 4,000 lb or more (1,814.4 kg or more) of scup harvested in or from the EEZ must fish with nets that have a minimum mesh size of 4 inches (10.2 cm) applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net, or, for codends with less 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 head rope, excluding any turtle excluder device extension.

(b) *Mesh-size measurement.* Mesh sizes will be measured according to the procedure described in § 625.24(c).

(c) *Net modification and mesh obstruction and constriction.* Vessels are prohibited from modifying, obstructing, and/or constricting their nets as described in § 625.24(d) and (e).

(d) *Stowage of nets.* Applicable APril 8, 1996, otter trawl vessels retaining 4,000 lb or more (1,814.4 or more kg) of scup harvested in or from the EEZ, and subject to the minimum mesh requirement specified in paragraph (a) of this section 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 conforms to the specifications specified in § 625.24(f) and that can be shown not to have been in recent use is considered to be not ''available for immediate use.''

[FR Doc. 96–7386 Filed 3–22–96; 3:45 pm]

BILLING CODE 3510–22–F

50 CFR Part 649

[Docket No. 960304058–6058–01; I.D. 020696A]

RIN 0648–XX50

American Lobster Fishery; Emergency Gear Conflict Regulations

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

ACTION: Emergency interim rule.

SUMMARY: NMFS, by emergency interim rule, amends the regulations implementing the American Lobster Fishery Management Plan (FMP). This emergency rule implements a prohibition on mobile gear vessels fishing in newly defined Restricted Gear Areas I and II; a prohibition on lobster pot vessels fishing in and lobster pots in newly defined Restricted Gear Area III; and a requirement that all mobile gear vessels in Restricted Gear Areas I and II and all lobster pot (fixed gear) vessels in Restricted Gear Area III stow their gear while transiting the restricted gear areas. The intended effect is to reduce gear losses caused by use of fixed and mobile gear simultaneously in the same area.

EFFECTIVE DATE: April 1, 1996 through June 25, 1996. Restricted Gear Areas I and II will be closed to mobile gear for the duration of this emergency action. Restricted Gear Area III will be closed April 1, 1996 through April 30, 1996, to fishing by fixed gear vessels.

ADDRESSES: Copies of the Environmental Assessment supporting this action may be obtained from Douglas Marshall, Executive Director, New England Fishery Management Council (Council), 5 Broadway, Saugus, MA 01906–1097.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 508–281–9273.

SUPPLEMENTARY INFORMATION:

Background

American lobster pot gear vessels began losing fixed gear in the offshore waters of Southern New England as a result of increased trawling by mobile gear fishers targeting monkfish during 1991. In 1992, offshore lobster fishers and some mobile gear fishers sought assistance from the Council. At that time, the Council believed that voluntary industry agreements were preferable to regulatory action. The Council helped several groups of fixed and mobile gear fishers draft and circulate the ''Southern New England Offshore Gear Conflict Resolution.'' The agreement was initially effective, because the fishers designed it to allow them to fish their gear in the most productive areas and seasons. Both fixed and mobile gear fishers gave up access to fishing grounds when they were less productive to gain easier access to grounds during more productive seasons. Besides setting aside areas to separate fixed and mobile gear, the resolution stressed cooperation