with marine fishery management responsibility and expertise, or his/her designee, and must be received by the Regional Administrator no later than April 15. Within 10 working days following receipt of the letter, the Regional Administrator shall notify the appropriate state official of the disposition of the request.

(b) Recreational landings sector closure. The Regional Administrator will monitor recreational landings based on the best available data and shall determine if the recreational harvest limit has been met or exceeded. The determination will be based on observed landings and will not utilize projections of future landings. At such time that the available data indicate that the recreational harvest limit has been met or exceeded, the Regional Administrator shall publish notification in the FEDERAL REGISTER advising that, effective on a specific date, the scup recreational fishery in the EEZ shall be closed for the remainder of the calendar year.

(1) Recreational ACL overage evaluation. The recreational sector ACL will be evaluated based on a 3-year moving average comparison of total catch (landings and dead discards). Both landings and dead discards will be evaluated in determining if the recreational harvest limit has been exceeded. The 3-year moving average will be phased in over the first 3 years, beginning with 2012: Total recreational total catch from 2012 will be compared to the 2012 recreational sector ACL; the average total catch from both 2012 and 2013 will be compared to the average of the 2012 and 2013 recreational sector ACLs; the average total catch from 2012, 2013, and 2014 will be compared to the average of the 2012, 2013, and 2014 recreational sector ACLs; and for all subsequent years, the preceding 3-year average recreational total catch will be compared to the preceding 3-year average recreational sector ACL.

(2) Recreational landing overage repayment. If available data indicate that the recreational sector ACL has been exceeded and the landings overage in pounds will be deducted, as soon as possible, from a subsequent single fishing year recreational sector ACT.

(c) Non-landing accountability measures, by sector. In the event that a sector ACL has been exceeded and the overage has not been accommodated through landing-based AMs, then the exact amount by which the sector ACL was exceeded will be deducted, as soon as practicable, from a subsequent single fishing year applicable sector ACL through the specification process.

(d) State/Federal disconnect AM. If the total catch, allowable landing, commercial quotas and/or RHL measures adopted by the ASMFC Scup Management Board and the MAFMC differ for a given fishing year, administrative action will be taken as soon as is practicable to revisit the respective recommendations of the two groups. The intent of this action shall be to achieve alignment through consistent state and Federal measures so no differential effects occur on Federal permit holders.

[76 FR 60632, Sept. 29, 2011]

§ 648.124 Scup commercial season and commercial fishery 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 5.0-inch (12.7-cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net. 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):

<table>
<thead>
<tr>
<th>SOUTHERN GEAR RESTRICTED AREA</th>
<th>Point</th>
<th>N. lat.</th>
<th>W. long.</th>
</tr>
</thead>
<tbody>
<tr>
<td>SGA1</td>
<td></td>
<td>39°20’</td>
<td>72°53’</td>
</tr>
<tr>
<td>SGA2</td>
<td></td>
<td>39°20’</td>
<td>72°28’</td>
</tr>
</tbody>
</table>
§ 648.124
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SOUTHERN GEAR RESTRICTED AREA—Continued

(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: Longfin squid; black sea bass; and silver hake (whiting).

(b) Northern Gear Restricted Area 1—(1) Restrictions. From November 1 through December 31, all trawl vessels in the Northern Gear Restricted Area 1 that fish for or possess non-exempt species as specified in paragraph (b)(2) of this section must fish with nets of 5.0-inch (12.7-cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net. For trawl nets with codends (including an extension) of fewer than 75 meshes, the entire trawl net must have a minimum mesh size of 5.0 inches (12.7 cm) throughout the net. The Northern Gear Restricted Area 1 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):

<table>
<thead>
<tr>
<th>Point</th>
<th>N. lat.</th>
<th>W. long.</th>
</tr>
</thead>
<tbody>
<tr>
<td>SGA1</td>
<td>39°00'</td>
<td>72°55'</td>
</tr>
<tr>
<td>SGA2</td>
<td>36°30'</td>
<td>74°43'</td>
</tr>
<tr>
<td>SGA3</td>
<td>37°00'</td>
<td>75°03'</td>
</tr>
<tr>
<td>SGA4</td>
<td>37°00'</td>
<td>75°03'</td>
</tr>
<tr>
<td>SGA5</td>
<td>39°00'</td>
<td>74°23'</td>
</tr>
</tbody>
</table>

(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]

(e) Addition or deletion of exemptions. The MAFMC may recommend to the Regional Administrator, through the framework procedure specified in §648.130(a), additions or deletions to exemptions for fisheries other than scup. A fishery may be restricted or exempted by area, gear, season, or other means determined to be appropriate to reduce bycatch of scup.

(f) Exempted experimental fishing. The Regional Administrator may issue an exempted experimental fishing permit (EFP) under the provisions of §600.745(b), consistent with paragraph (d)(2) of this section, to allow any vessel participating in a scup discard mitigation research project to engage in any of the following activities: Fish in the applicable gear restriction area; use fishing gear that does not conform to the regulations; possess non-exempt species specified in paragraphs (a)(2) and (b)(2) of this section; or engage in any other activity necessary to project operations for which an exemption from regulatory provision is required. Vessels issued an EFP must comply with all conditions and restrictions specified in the EFP.

(1) A vessel participating in an exempted experimental fishery in the Scup Gear Restriction Area(a)s must carry an EFP authorizing the activity and any required Federal fishery permit on board.

(2) The Regional Administrator may not issue an EFP unless s/he determines that issuance is consistent with the objectives of the FMP, the provisions of the Magnuson-Stevens Act, and other applicable law and will not:

(i) Have a detrimental effect on the scup resource and fishery;

(ii) Cause the quotas for any species of fish for any quota period to be exceeded;

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(iii) Create significant enforcement problems; or
(iv) Have a detrimental effect on the scup discard mitigation research project.

[78 FR 60633, Sept. 29, 2011, as amended at 77 FR 16480, Mar. 21, 2012]

§ 648.125 Scup gear restrictions.

(a) Trawl vessel gear restrictions—(1) Minimum mesh size. No owner or operator of an otter trawl vessel that is issued a scup moratorium permit may possess 500 lb (226.8 kg) or more of scup from November 1 through April 30, or 200 lb (90.7 kg) or more of scup from May 1 through October 31, unless fishing with nets that have a minimum mesh size of 5.0-inch (12.7-cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net, and all other nets are stowed in accordance with §648.23(b)(1). For trawl nets with codends (including an extension) of fewer than 75 meshes, the entire trawl net must have a minimum mesh size of 5.0 inches (12.7 cm) throughout the net. Scup on board these vessels must be separated and kept readily available for inspection. Measurement of nets will conform with §648.80(f).

(2) Mesh-size measurement. Mesh sizes will be measured according to the procedure specified in §648.104(a)(2).

(3) Net modification. The owner or operator of a fishing vessel subject to the minimum mesh requirements in §648.124 and in paragraph (a)(1) of this section shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of the net, as defined in paragraph (a)(3) of this section, if it obstructs or constricts the meshes of the net in any manner.

(ii) The owner or operator of a fishing vessel subject to the minimum mesh requirements in paragraph (a)(1) of this section may not use a net capable of catching scup if the bars entering or exiting the knots twist around each other.

(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 200 lb (90.7 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 midwater trawl or other trawl vessel subject to the minimum size requirement in §648.126, may not have available for immediate use any net, or any piece of net, that is not available for immediate use, is considered to be not available for immediate use.

(6) Roller gear. The owner or operator of an otter trawl vessel issued a moratorium permit pursuant to §648.4(a)(6) shall not use roller rig trawl gear equipped with rollers greater than 18 inches (45.7 cm) in diameter.

(7) Procedures for changes. The minimum net mesh and the threshold catch level at which it is required set forth in paragraph (a)(1) of this section, and the maximum roller diameter set