

§ 648.122

50 CFR Ch. VI (10–13 Edition)

(1) *Sectors.* Commercial and recreational specific ACTs shall be less than or equal to the sector-specific ACLs. The Scup Monitoring Committee shall recommend any reduction in catch necessary to address sector-specific management uncertainty, consistent with paragraph (a) of this section.

(2) *Periodicity.* ACTs may be established on an annual basis for up to 3 years at a time, dependent on whether the SSC provides single or multiple year ABC recommendations.

(b) *Performance review.* The Scup Monitoring Committee shall conduct a detailed review of fishery performance relative to ACTs in conjunction with any ACL performance review, as outlined in § 648.120(b)(1) through (3).

[76 FR 60631, Sept. 29, 2011]

§ 648.122 Scup specifications.

(a) *Commercial quota, recreational landing limits, research set-asides, and other specification measures.* The Scup Monitoring Committee shall recommend to the Demersal Species Committee of the MAFMC and the ASMFC through the specifications process, for use in conjunction with each ACL and ACT, a sector specific research set-aside, estimates of sector-related discards, recreational harvest limit, and commercial quota, along with other measures, as needed, that are projected to ensure the sector-specific ACL for an upcoming fishing year or years will not be exceeded. The measures to be considered by the Scup Monitoring Committee are as follows:

(1) Research quota set from a range of 0 to 3 percent of the maximum allowed to achieve the specified exploitation rate.

(2) The commercial quota for each of the three periods specified in paragraph (c)(1) of this section for research quota.

(3) Possession limits for the Winter I and Winter II periods, including possession limits that result from potential rollover of quota from Winter I to Winter II. The possession limit is the maximum quantity of scup that is allowed to be landed within a 24-hour period (calendar day).

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

(5) All scup landed for sale in any state during a quota period shall be applied against the coastwide commercial quota for that period, regardless of where the scup were harvested, except as provided in paragraph (c)(5) of this section.

(6) Minimum mesh size.

(7) Recreational possession limit set from a range of 0 to 50 scup to achieve the recreational harvest limit, set after the reduction for research quota.

(8) Recreational minimum fish size.

(9) Recreational season.

(10) Restrictions on gear.

(11) Season and area closures in the commercial fishery.

(12) Total allowable landings on an annual basis for a period not to exceed 3 years.

(13) [Reserved]

(14) Modification of existing AM measures and ACT control rules utilized by the Scup Monitoring Committee.

(b) *Specification of 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 ACLs 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 Administrator shall review these recommendations and any recommendations of the ASMFC. After such review, NMFS will publish a proposed rule in the FEDERAL REGISTER to implement a commercial quota, specifying the amount of quota allocated to each of the three periods, possession limits for the Winter I and Winter II periods, including possession limits that result from potential rollover of quota from Winter I to Winter II, the percentage of landings attained during the Winter I fishery at which the possession limits will be reduced, a recreational harvest limit, and additional management measures for the commercial fishery. If the Regional Administrator determines that additional recreational measures are necessary to ensure that the sector

ACL will not be exceeded, he or she will publish a proposed rule in the FEDERAL REGISTER to implement additional management measures for the recreational fishery. After considering public comment, the Regional Administrator will publish a final rule in the FEDERAL REGISTER to implement annual measures.

(c) *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 commercial quotas for each period will each be distributed to the coastal states from Maine through North Carolina on a coastwide basis.

(d) *Winter I and II commercial quota adjustment procedures.* The Regional Administrator will monitor the harvest of commercial quota for the Winter I period based on dealer reports, state data, and other available information and shall determine the total amount of scup landed during the Winter I period. In any year that the Regional Administrator determines that the landings of scup during Winter I are less than the Winter I quota for that year, he/she shall increase, through publication of a notification in the FEDERAL REGISTER, provided such rule complies with the requirements of the Administrative Procedure Act, the Winter II quota for that year by the amount of the Winter I under-harvest. The Regional Administrator shall also adjust, through publication of a notification in the FEDERAL REGISTER, the Winter II possession limits consistent with the amount of the quota increase, based on the possession limits established through the annual specifications-setting process.

(e) *Research quota.* See § 648.21(g).

[76 FR 60631, Sept. 29, 2011, as amended at 76 FR 81850, Dec. 29, 2011]

§ 648.123 Scup accountability measures.

(a) *Commercial sector period closures.* The Regional Administrator will monitor the harvest of commercial quota

for each quota period based on dealer reports, state data, and other available information and shall determine the date when the commercial quota for a 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.

(1) *Commercial ACL overage evaluation.* The commercial sector ACL will be evaluated based on a single-year examination of total catch (landings and dead discards). Both landings and dead discards will be evaluated in determining if the commercial sector ACL has been exceeded.

(2) *Commercial landings overage repayment by quota period.* (i) All scup landed for sale in any state during a quota period shall be applied against the coastwide commercial quota for that period, regardless of where the scup were harvested, except as provided in paragraph (a)(2)(iv) of this section, and irrespective of whether the commercial sector ACL is exceeded. Any current year landings in excess of the commercial quota in any quota period will be deducted from that quota period's annual quota in the following year as prescribed in paragraphs (a)(2)(ii) through (iii) of this section:

(ii) For the Winter I and Summer quota periods, landings in excess of the allocation will be deducted from the appropriate quota period for the following year in the final rule that establishes the annual quota. The overage deduction will be based on landings for the current year through October 31 and on landings for the previous calendar year that were not included when the overage deduction was made in the final rule that established the period quotas for the current year. If the Regional Administrator determines during the fishing year that any part of an overage deduction was based on erroneous landings data that were in excess of actual landings for the period