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affected industry in the development of recommended management measures;
(iii) Whether there is an immediate need to protect the resource; and
(iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.

(3) **NMFS action.** If the MAFMC’s recommendation includes adjustments or additions to management measures and, if after reviewing the MAFMC’s recommendation and supporting information:

(i) NMFS concurs with the MAFMC’s recommended management measures and determines that the recommended management measures should be issued as a final rule based on the factors in paragraph (a)(2) of this section, the measures will be issued as a final rule in the **FEDERAL REGISTER**.

(ii) If NMFS concurs with the MAFMC’s recommended management measures and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the **FEDERAL REGISTER**. After additional public comment, if NMFS concurs with the MAFMC recommendation, the measures will be published as a final rule in the **FEDERAL REGISTER**.

(iii) If NMFS does not concur, the MAFMC will be notified in writing of the reasons for the non-concurrence.

(4) **Emergency actions.** Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

(b) [Reserved]

§ 648.121 Scup Annual Catch Target (ACT).

(a) The Scup Monitoring Committee shall identify and review the relevant sources of management uncertainty to recommend ACTs for the commercial and recreational fishing sectors as part of the scup specification process. The Scup Monitoring Committee recommendations shall identify the specific sources of management uncertainty that were considered, technical approaches to mitigating these sources of uncertainty, and any additional relevant information considered in the ACT recommendation process.

Subpart H—Management Measures for the Scup Fishery

Source: 61 FR 43426, Aug. 23, 1996, unless otherwise noted.

§ 648.120 Scup Annual Catch Limit (ACL).

(a) The Scup Monitoring Committee shall recommend to the MAFMC separate ACLs for the commercial and recreational scup fisheries, the sum total of which shall be equal to the ABC recommended by the SSC.

1. **Sector allocations.** The commercial and recreational fishing sector ACLs will be established consistent with the allocation guidelines contained in the Summer Flounder, Scup, and Black Sea Bass FMP.

2. **Periodicity.** The scup commercial and recreational sector ACLs 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 the sector ACLs at least every 5 years.

1. If one or both of the sector-specific ACLs is exceeded with a frequency greater than 25 percent (i.e., more than once in 4 years or any 2 consecutive years), the Scup Monitoring Committee will review fishery performance information and make recommendations to the MAFMC for changes in measures intended to ensure ACLs are not as frequently exceeded.

2. The MAFMC may specify more frequent or more specific ACL performance review criteria as part of a stock rebuilding plan following a determination that the scup stock has become overfished.

3. Performance reviews shall not substitute for annual reviews that occur to ascertain if prior year ACLs have been exceeded but may be conducted in conjunction with such reviews.

[76 FR 60631, Sept. 29, 2011]
(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-spe-
cific management uncertainty, consistent with paragraph (a) of this sec-
tion.

(2) Periodicity. ACTs may be estab-
lished 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 out-
lined in §648.120(b)(1) through (3).

§648.122 Scup specifications.

(a) Commercial quota, recreational
landing limits, research set-asides, and
other specification measures. The Scup
Monitoring Committee shall rec-
commend to the Demersal Species Com-
mittee 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 dis-
cards, 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 al-
lowed to achieve the specified exploi-
tation 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 posses-
sion limits that result from potential
rollover of quota from Winter I to Win-
ter II. The possession limit is the max-
imum 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 ap-
plied 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 uti-
лизированный 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 Com-
mittee shall recommend to the
MAFMC measures necessary to assure
that the specified ACLs will not be ex-
ceeded. The MAFMC’s recommendation
must include supporting documenta-
tion, as appropriate, concerning the en-
vironmental and economic impacts of
the recommendations. The Regional
Administrator shall review these rec-
ommendations and any recommenda-
tions 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, in-
cluding 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

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