

Fishery Conservation and Management

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dealer permit. Persons aboard a commercial vessel that is not eligible for a scup moratorium permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a scup moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.120.

(b) If whole scup are processed into fillets, an authorized officer will convert the number of fillets to whole scup at the place of landing by dividing fillet number by 2. If scup are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole scup.

(c) Scup harvested by vessels subject to the possession limit with more than one person aboard may be pooled in one or more containers. Compliance with the daily possession limit will be determined by dividing the number of scup on board by the number of persons aboard other than the captain and crew. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner and operator.

(d) Scup and scup parts harvested by a vessel with a moratorium or charter or party boat scup permit, or in or from the EEZ north of 35°15.3' N. lat., may not be landed with the skin removed.

[61 FR 43426, Aug. 23, 1996, as amended at 66 FR 39292, July 30, 2001; 67 FR 50373, Aug. 2, 2002; 68 FR 44236, July 28, 2003]

§ 648.126 Protection of threatened and endangered sea turtles.

This section supplements existing regulations issued to regulate incidental take of sea turtles under authority of the Endangered Species Act under 50 CFR parts 222 and 223. In addition to the measures required under those parts, NMFS will investigate the extent of take in flynet gear and if deemed appropriate, may develop and

certify a Turtle Excluder Device for that gear.

[61 FR 43426, Aug. 23, 1996, as amended at 64 FR 14077, Mar. 23, 1999]

§ 648.127 Framework adjustments to management measures.

(a) *Within season management action.* See § 648.108(a).

(1) *Adjustment process.* See § 648.108(a)(1).

(2) *Council recommendation.* See § 648.108(a)(2)(i) through (iv).

(3) *NMFS action.* See § 648.108(a)(i) through (iii).

(4) *Emergency actions.* See § 648.108(a)(4).

(b) [Reserved]

[64 FR 57595, Oct. 26, 1999, as amended at 64 FR 66587, Nov. 29, 1999]

Subpart I—Management Measures for the Black Sea Bass Fishery

SOURCE: 61 FR 58467, Nov. 15, 1996, unless otherwise noted.

§ 648.140 Catch quotas and other restrictions.

(a) *Review.* The Black Sea Bass Monitoring Committee shall review each year the following data, subject to availability, unless a TAL already has been established for the upcoming calendar year as part of a multiple-year specification process, provided that new information does not require a modification to the multiple-year quotas, to determine the allowable levels of fishing and other restrictions necessary to result in a target exploitation rate of 23 percent (based on F_{max}) in 2003 and subsequent years: Commercial, recreational, and research catch data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; sea sampling and winter trawl survey data, or if sea sampling data are unavailable, length frequency information from the winter trawl survey and mesh selectivity analyses; impact of gear other than otter trawls, pots and traps on the

mortality of black sea bass; and any other relevant information.

(b) *Recommended measures.* Based on this review and requests for research quota as described in paragraph (e) of this section, the Black Sea Bass Monitoring Committee will recommend to the Demersal Species Committee of the Council and the Commission the following measures to ensure that the target exploitation rate specified in paragraph (a) of this section is not exceeded:

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

(2) A commercial quota allocated annually, set from a range of zero to the maximum allowed to achieve the specified target exploitation rate, set after the deduction for research quota.

(3) A commercial possession limit for all moratorium vessels may be set from a range of zero to the maximum allowed to assure that the annual coastwide quota is not exceeded, with the provision that these quantities be the maximum allowed to be landed within a 24-hour period (calendar day).

(4) Commercial minimum fish size.

(5) Minimum mesh size in the codend or throughout the net and the catch threshold that will require compliance with the minimum mesh requirement.

(6) Escape vent size.

(7) A recreational possession limit set from a range of 0 to the maximum allowed to achieve the target exploitation rate, set after the reduction for research quota.

(8) Recreational minimum fish size.

(9) Recreational season. This measure may be adjusted beginning in 1998.

(10) Restrictions on gear other than otter trawls and pots or traps.

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

(c) *Fishing measures.* The Demersal Species Committee shall review the recommendations of the Black Sea Bass Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall make its recommendations to the Council with respect to the measures necessary to assure that the target exploitation rate specified in

paragraph (a) of this section is not exceeded. The Council shall review these recommendations and, based on the recommendations and public comment, make recommendations to the Regional Administrator with respect to the measures necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded. Included in the recommendation will be supporting documents, as appropriate, concerning the environmental and economic impacts of the final rule. The Regional Administrator will review these recommendations and any recommendations of the Commission. After such review, the Regional Administrator will publish a proposed rule in the FEDERAL REGISTER to implement a commercial quota, a recreational harvest limit, and additional management measures for the commercial fishery. If the Regional Administrator determines that additional recreational measures are necessary to assure that the target exploitation rate specified in paragraph (a) of this section 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 the measures necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded.

(d) *Distribution of annual quota.* (1) Beginning on March 31, 2003, a commercial annual coastwide quota will be allocated to the commercial black sea bass fishery.

(2) All black sea bass landed for sale in the states from North Carolina through Maine by a vessel with a moratorium permit issued under § 648.4(a)(7) shall be applied against the commercial annual coastwide quota, regardless of where the black sea bass were harvested. All black sea bass harvested north of 35°15.3' N. lat., and landed for sale in the states from North Carolina through Maine by any vessel without a moratorium permit and fishing exclusively in state waters will be counted against the quota by the state in which it is landed, pursuant to the Fishery

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Management Plan for the Black Sea Bass Fishery adopted by the Commission. The Regional Administrator will determine the date on which the annual coastwide quota will have been harvested; beginning on that date and through the end of the calendar year, the EEZ north of 35°15.3' N. lat. will be closed to the possession of black sea bass. The Regional Administrator will publish notification in the FEDERAL REGISTER advising that, upon, and after, that date, no vessel may possess black sea bass in the EEZ north of 35°15.3' N. lat. during a closure, nor may vessels issued a moratorium permit land black sea bass during the closure. Individual states will have the responsibility to close their ports to landings of black sea bass during a closure, pursuant to the Fishery Management Plan for the Black Sea Bass Fishery adopted by the Commission.

(3) Landings in excess of the annual coastwide quota will be deducted from the quota allocation 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 September 30, and landings for the previous calendar year that were not included when the overage deduction was made in the final rule that established the annual coastwide quota 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 concerned, he/she will restore the overage that was deducted in error to the appropriate quota allocation. The Regional Administrator will publish notification in the FEDERAL REGISTER announcing the restoration.

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

[61 FR 58467, Nov. 15, 1996, as amended at 66 FR 12911, Mar. 1, 2001; 66 FR 42161, Aug. 10, 2001; 67 FR 6881, Feb. 14, 2002; 68 FR 10183, Mar. 4, 2003; 69 FR 62822, Oct. 28, 2004; 70 FR 311, Jan. 4, 2005]

§ 648.141 Closure.

EEZ closure. The Regional Administrator shall close the EEZ to fishing for black sea bass by commercial vessels issued a moratorium permit for the remainder of the calendar year by

publishing notification in the FEDERAL REGISTER if he or she determines that the action or inaction of one or more states will cause the applicable target exploitation rate specified in § 648.140(a) to be exceeded. The Regional Administrator may reopen the EEZ if earlier action or inaction by a state has been remedied by that state without causing the applicable specified target exploitation rate to be exceeded.

§ 648.142 Time restrictions.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(7), and fishermen subject to the possession limit may possess black sea bass from January 1 through December 31, unless this time period is adjusted pursuant to the procedures in § 648.140.

[70 FR 35046, June 16, 2005]

§ 648.143 Minimum sizes.

(a) The minimum size for black sea bass is 11 inches (27.94 cm) total length for all vessels issued a moratorium permit under § 648.4 (a)(7) that fish for, possess, land or retain black sea bass in or from U.S. waters of the western Atlantic Ocean from 35° 15.3 N. Lat., the latitude of Cape Hatteras Light, North Carolina, northward to the U.S.-Canadian border. The minimum size may be adjusted for commercial vessels pursuant to the procedures in § 648.140.

(b) The minimum size for black sea bass is 12 inches (30.5 cm) TL for all vessels that do not qualify for a moratorium permit, and for party boats holding a moratorium permit, if fishing with passengers for hire or carrying more than five crew members, and for charter boats holding a moratorium permit, if fishing with more than three crew members. The minimum size may be adjusted for recreational vessels pursuant to the procedures in § 648.140.

(c) The minimum size in this section applies to the whole fish or any part of a fish found in possession (e.g., fillets), except that party or charter vessels possessing valid state permits authorizing filleting at sea may possess fillets smaller than the size specified if skin