

Fishery Conservation and Management

§ 648.23

recreational fisheries in the relevant FMP and allocated to the remaining quota periods for the fishing year proportionally.

(6) Vessels participating in approved research projects may be exempted from certain management measures by the Regional Administrator, provided that one of the following analyses of the impacts associated with the exemptions is provided:

(i) The analysis of the impacts of the requested exemptions is included as part of the annual quota specification packages submitted by the Council; or

(ii) For proposals that require exemptions that extend beyond the scope of the analysis provided by the Council, applicants may be required to provide additional analysis of impacts of the exemptions before issuance of an EFP will be considered, as specified in the EFP regulations at § 648.745(b).

[61 FR 34968, July 3, 1996, as amended at 62 FR 8637, Feb. 26, 1997; 64 FR 57593, Oct. 26, 1999; 65 FR 16345, Mar. 28, 2000; 65 FR 55927, Sept. 15, 2000; 66 FR 13028, Mar. 2, 2001; 66 FR 35566, July 6, 2001; 66 FR 42159, Aug. 10, 2001; 67 FR 3627, Jan. 25, 2002; 67 FR 44394, July 2, 2002; 68 FR 60, Jan. 2, 2003; 69 FR 16178, Mar. 29, 2004]

§ 648.22 Closure of the fishery.

(a) *General.* NMFS shall close the directed mackerel fishery in the EEZ when U.S. fishermen have harvested 80 percent of the DAH of that fishery if such closure is necessary to prevent the DAH from being exceeded. The closure shall remain in effect for the remainder of the fishing year, with incidental catches allowed as specified in paragraph (c) of this section, until the entire DAH is attained. When the Regional Administrator projects that DAH will be attained for mackerel, NMFS will close the mackerel fishery in the EEZ, and the incidental catches specified for mackerel in paragraph (c) of this section will be prohibited. NMFS will close the directed fishery in the EEZ for *Loligo* when 80 percent is harvested in Quarters I, II and III, and when 95 percent of the total annual DAH has been harvested. The closure of the directed fishery will be in effect for the remainder of the fishing year, with incidental catches allowed as specified in paragraph (c) of this section. NMFS

will close the directed fishery in the EEZ for *Illex* or butterfish when 95 percent of the DAH has been harvested. The closure of the directed fishery will be in effect for the remainder of the fishing year, with incidental catches allowed as specified in paragraph (c) of this section.

(b) *Notification.* Upon determining that a closure is necessary, the Assistant Administrator will notify, in advance of the closure, the Executive Directors of the MAFMC, NEFMC, and SAFMC; mail notification of the closure to all holders of mackerel, squid, and butterfish fishery permits at least 72 hours before the effective date of the closure; provide adequate notice of the closure to recreational participants in the fishery; and publish notification of closure in the FEDERAL REGISTER.

(c) *Incidental catches.* During the closure of the directed fishery for mackerel, the possession limit for mackerel is 10 percent by weight of the total amount of fish on board. During a period of closure of the directed fishery for *Loligo*, *Illex*, or butterfish, the possession limit for *Loligo* and butterfish is 2,500 lb (1.13 mt) each, and the possession limit for *Illex* is 10,000 lb (4.54 mt). Vessels may not land more than these limits during any single calendar day, which is defined as the 24-hour period beginning at 0001 hours and ending at 2400 hours.

[61 FR 34968, July 3, 1996, as amended at 62 FR 8637, Feb. 26, 1997; 65 FR 16345, Mar. 28, 2000; 65 FR 81765, Dec. 27, 2000; 66 FR 13028, Mar. 2, 2001; 69 FR 4864, Feb. 2, 2004]

§ 648.23 Gear restrictions.

(a) [Reserved]

(b) Definition of “not available for immediate use.” Gear that is shown not to have been in recent use and that is stowed in conformance with one of the following methods is considered to be not available for immediate use:

(1) *Nets.* (i) *Below deck stowage.* (A) It is stored below the main working deck from which it is deployed and retrieved;

(B) The towing wires, including the leg wires, are detached from the net; and

(C) It is fan-folded (flaked) and bound around its circumference.

§ 648.23

50 CFR Ch. VI (10-1-06 Edition)

(ii) *On-deck stowage.* (A) It is fan-folded (flaked) and bound around its circumference;

(B) It is securely fastened to the deck or rail of the vessel; and

(C) The towing wires, including the leg wires, are detached from the net.

(iii) *On-reel stowage.* (A) The net is on a reel, its entire surface is covered with canvas or other similar opaque material, and the canvas or other material is securely bound;

(B) The towing wires are detached from the net; and

(C) The codend is removed and stored below deck.

(iv) *On-reel stowage for vessels transiting the Gulf of Maine Rolling Closure Areas, the Georges Bank Seasonal Area Closure, and the Conditional Gulf of Maine Rolling Closure Area.* (A) The net is on a reel, its entire surface is covered with canvas or other similar opaque material, and the canvas or other material is securely bound;

(B) The towing wires are detached from the doors; and

(C) No containment rope, codend tripping device, or other mechanism to close off the codend is attached to the codend.

(2) *Scallop dredges.* (i) The towing wire is detached from the scallop dredge, the towing wire is completely reeled up onto the winch, the dredge is secured and the dredge or the winch is covered so that it is rendered unuseable for fishing; or

(ii) The towing wire is detached from the dredge and attached to a bright-colored poly ball no less than 24 inches (60.9 cm) in diameter, with the towing wire left in its normal operating position (through the various blocks) and either is wound back to the first block (in the gallows) or is suspended at the end of the lifting block where its retrieval does not present a hazard to the crew and where it is readily visible from above.

(3) *Hook gear (other than pelagic).* All anchors and buoys are secured and all hook gear, including jigging machines, is covered.

(4) *Sink gillnet gear.* All nets are covered with canvas or other similar material and lashed or otherwise securely fastened to the deck or rail, and all buoys larger than 6 inches (15.24 cm) in

diameter, high flyers, and anchors are disconnected.

(5) *Other methods of stowage.* Any other method of stowage authorized in writing by the Regional Administrator and subsequently published in the FEDERAL REGISTER.

(c) *Mesh obstruction or constriction.* The owner or operator of a fishing vessel shall not use any mesh construction, mesh configuration or other means that effectively decreases the mesh size below the minimum mesh size, except that a liner may be used to close the opening created by the rings in the aftermost portion of the net, provided the liner extends no more than 10 meshes forward of the aftermost portion of the net. The inside webbing of the codend shall be the same circumference or less than the outside webbing (strengtheners). In addition, the inside webbing shall not be more than 2 ft (61 cm) longer than the outside webbing.

(d) *Net obstruction or constriction.* The owner or operator of a fishing vessel 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 a trawl net that results in an effective mesh opening of less than 1 $\frac{1}{8}$ inches (48 mm) diamond mesh, inside stretch measure. Net strengtheners (covers), splitting straps and/or bull ropes or wire may be used, provided they do not constrict the top of the regulated portion of the net to less than an effective mesh opening of 1 $\frac{1}{8}$ inches (48 mm), diamond mesh, inside stretch measure. Net strengtheners (covers) may not have an effective mesh opening of less than 4.5 inches (11.43 cm), diamond mesh, inside stretch measure. "Top of the regulated portion of the net" means the 50 percent of the entire regulated portion of the net that (in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the regulated portion of the net were laid flat on the ocean floor. For the purpose of this paragraph (d), head ropes are not

Fishery Conservation and Management

§ 648.24

to be considered part of the top of the regulated portion of a trawl net.

[61 FR 34968, July 3, 1996, as amended at 62 FR 14648, Mar. 27, 1997; 63 FR 1774, Jan. 12, 1998; 64 FR 24073, May 5, 1999; 65 FR 16345, Mar. 28, 2000; 65 FR 37911, June 19, 2000; 68 FR 9586, Feb. 28, 2003; 69 FR 22951, Apr. 27, 2004]

§ 648.24 Framework adjustments to management measures.

(a) *Within season management action.* The Council, at any time, may initiate action to add or adjust management measures within the Atlantic Mackerel, Squid, and Butterfish FMP if it finds that action is necessary to meet or be consistent with the goals and objectives of the plan.

(1) *Adjustment process.* The Council shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting and prior to and at the second Council meeting. The Council's recommendations on adjustments or additions to management measures must come from one or more of the following categories: Minimum fish size, maximum fish size, gear restrictions, gear requirements or prohibitions, permitting restrictions, recreational possession limit, recreational seasons, closed areas, commercial seasons, commercial trip limits, commercial quota system including commercial quota allocation procedure and possible quota set asides to mitigate bycatch, recreational harvest limit, annual specification quota setting process, FMP Monitoring Committee composition and process, description and identification of essential fish habitat (and fishing gear management measures that impact EFH), description and identification of habitat areas of particular concern, overfishing definition and related thresholds and targets, regional gear restrictions, regional season restrictions (including option to split seasons), restrictions on vessel size (LOA and GRT) or shaft horsepower, any other management measures currently included in the FMP, set

aside quota for scientific research, regional management, and process for inseason adjustment to the annual specification.

(2) *Council recommendation.* After developing management actions and receiving public testimony, the Council shall make a recommendation to the Regional Administrator. The Council's recommendation must include supporting rationale, if management measures are recommended, an analysis of impacts, and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the Council recommends that the management measures should be issued as a final rule, the Council must consider at least the following factors, and provide support and analysis for each factor considered:

(i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether the regulations would have to be in place for an entire harvest/fishing season.

(ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the recommended management measures.

(iii) Whether there is an immediate need to protect the resource.

(iv) Whether there will be a continuing evaluation of management measures following their implementation as a final rule.

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

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